

COGNITIVE DESEGREGATION:  
UNMASKING HUMAN SEXUALITY IN THE US MILITARY

BY  
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## APPROVAL

The undersigned certify that this thesis meets master's-level standards of research, argumentation, and expression.

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## DISCLAIMER

The conclusions and opinions expressed in this document are those of the author. They do not reflect the official position of the US Government, Department of Defense, the United States Air Force, or Air University.

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This paper is dedicated in memory of Lady Jayne, my American pit bull terrier who passed during its final weeks of writing.

## ABSTRACT

President Barack Obama directed Don't Ask, Don't Tell (DADT) be replaced with a policy of nondiscrimination based on sexual orientation. While Congress considers repeal, the military is conducting research on how to implement a new policy. Repealing DADT will result in a cognitive desegregation of the military, allowing open or known homosexuals and bisexuals to serve. People differ in their opinions about the morality of homosexual acts and some have concerns about working with open gays, lesbians, and bisexuals. This thesis analyses the current DADT statute and its likely replacement, the Military Readiness Enhancement Act, and provides a framework called the Cognitive Segregation model for understanding perceptions of gay, lesbians, and bisexuals in the military. A cognitive desegregation training program can empower leadership and service members to manage their concerns by teaching policy, directing professional behavior, and providing access to support services and resources.

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## **Introduction**

*I believe that we need to repeal the 'Don't Ask, Don't Tell' policy. The key test for military service should be patriotism, a sense of duty, and a willingness to serve.*

President Barack Obama

## **Statement of Research Question**

If the current Don't Ask, Don't Tell (DADT) statute is replaced with a nondiscriminatory policy allowing people of all sexual orientations to serve openly in the US armed forces, the Department of Defense (DOD) will be expected to comply swiftly and without protest (see appendix A). Given longstanding, widespread opposition to open service by homosexuals and bisexuals within the US military forces, what procedures will enable efficient and effective implementation of such a policy?

This thesis comprises an exploration of extant and pending policies regarding gay, lesbian, and bisexual personnel, and culminates in proposals for a DOD-wide training program that should empower all military members, regardless of their sexual orientation, with the direction and knowledge necessary for an effective transition to a mandated nondiscriminatory policy.

If DADT is repealed, there will be a necessary transition period to implement an effective replacement policy. The viability of the replacement policy is contingent upon a variety of factors, to include perceptions of fairness, sincerity, and legitimacy. Language will play an important role. For example, the terms *integrate* or *integration* in reference to this issue are not useful in describing the transition as the US military already allows non-heterosexually oriented persons to serve, albeit discretely. Essentially, homosexuals and bisexuals are already integrated into the military.

What would happen would be more akin to desegregation, or more accurately, *cognitive desegregation*. In the armed services, heterosexuals are *cognitively segregated* from homosexuals and bisexuals by law. Non-heterosexual service members essentially mask their sexual orientation in order to serve. If DADT were to be repealed, current service members may choose to keep their sexual orientation private or they could unmask their non-heterosexual orientation in a socially selective and respectful manner without fear of career termination. The transition would be a period wherein heterosexuals may become aware of the sexual orientation of non-heterosexual service members or at least come to terms with the possibility of this knowledge. Cognitive desegregation training will smooth this transition by focusing on DOD adaptation on new policies, professional conduct, and access to resources.

### **Background and Significance**

During the 2008 presidential campaign, then Senator Barack Obama stated that if elected, he would seek to end DADT in the name of national security. In a 2008 CBS news article, Barack Obama said, "Anybody who is willing to serve our country and die on a battlefield for us and our patriots, that's the criteria for whether or not they should be able to serve in our military."<sup>1</sup>

In that same article, Obama said sexual orientation does not impact national security but removing persons with critical skills from military service does. Obama added, "We're spending large sums of money to kick highly qualified gays or lesbians out of our military, some of whom possess specialties like Arab-language capabilities that we desperately need. That doesn't make us more safe."<sup>2</sup>

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<sup>1</sup> "Barack Obama on Gay Rights," Glass Booth, <http://glassbooth.org/explore/index/barack-obama/11/gay-rights/15/>.

<sup>2</sup> "Barack Obama on Gay Rights."

Upon election to office, President Obama directed Congress and the armed forces to prepare for the repeal of DADT. His administration announced that greater focus on the issue would begin in 2010 as his first year would be dedicated to the US economy. In his January 2010 State of the Union address, President Obama reiterated his earlier goal on repealing DADT, directed the military to engage, and called upon Congress to legislate the change.<sup>3</sup> As the Commander-in-Chief of the US military, endowed with the authority to do so under the US Constitution, President Obama provided clear leadership and guidance to the military to remove discrimination based on sexual orientation.

On 2 February 2010, Admiral Mike Mullen, the Chairman of the Joint Chiefs of Staff, stated before the Senate Armed Services Committee "... that allowing homosexuals to serve openly would be the right thing to do."<sup>4</sup> Although it was couched as his personal opinion, it was the first time a Chairman of the Joint Chiefs of Staff, the highest ranking US military officer position, ever publically opposed DADT.

During that same committee hearing, Secretary of Defense Robert M. Gates acknowledged the DOD has received its orders from President Obama and will comply with his direction.<sup>5</sup> Secretary Gates announced that he formed a review board to examine how best to implement a new policy of nondiscrimination based on sexual orientation. This working group is led by Mr. Jeh C. Johnson, the top Pentagon legal counsel, and General Carter F. Ham, the Commander of US Army in Europe.<sup>6</sup> Gates said he felt a solid review would take the rest of the year and the board will submit a report of it findings and recommendations by 1 December

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<sup>3</sup> Barak Obama, "Remarks by the President in State of the Union Address," White House, Office of the Press Secretary, <http://www.whitehouse.gov/the-press-office/remarks-president-state-union-address>.

<sup>4</sup> Michael Mullen, "Mullen's Blog: My View on 'Don't Ask Don't Tell,'" American Forces Press Service, <http://www.defense.gov/news/newsarticle.aspx?id=57839>.

<sup>5</sup> Elisabeth Bumiller, "Top Defense Officials Seek to End 'Don't Ask, Don't Tell,'" New York Times, <http://www.nytimes.com/2010/02/03/us/politics/03military.html>.

<sup>6</sup> Bumiller, "Top Defense Officials Seek to End 'Don't Ask, Don't Tell'."

2010. This report is to include the results of surveying the armed forces and their families for their thoughts and concerns regarding a change in policy.

The day after Admiral Mullen made statements supporting repeal of DADT, influential figures who had formerly favored the ban began to step forward to announce they had changed their minds. Retired Army General Colin L. Powell, whose opposition to allowing gay men and lesbians to serve openly in the military helped lead to the creation of DADT 17 years ago, said he now thinks the restrictive law should be repealed. According to the Washington Post, Powell said, "Attitudes and circumstances have changed. It's been a whole generation" since the legislation was adopted, and there is increased "acceptance of gays and lesbians in society."<sup>7</sup> "Society is always reflected in the military. It's where we get our soldiers from," concluded the former Chairman of the Joint Chiefs of Staff.<sup>8</sup>

Powell's change of heart is particularly powerful given his most commonly cited opinion about how the 1940's arguments to keep blacks segregated are being used today against gays. Powell was critical of the comparison and stated, "Skin color is a benign, non-behavioral characteristic. Sexual orientation is perhaps the most profound of human behavioral characteristics. Comparison of the two is a convenient but invalid argument."<sup>9</sup> While it is popularly believed today that skin color is a benign trait, it is not what American whites believed back in the 1940's. Context matters. Also, traits themselves are inherently benign, but it is what society constructs around these traits such as inaccurate negative stereotypes that matters in the comparison.

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<sup>7</sup> Karen DeYoung, "Colin Powell Now Says Gays Should Be Able to Serve Openly in Military," (2010), <http://www.washingtonpost.com/wp-dyn/content/article/2010/02/03/AR2010020302292.html>.

<sup>8</sup> DeYoung, "Colin Powell Now Says Gays Should Be Able to Serve Openly in Military."

<sup>9</sup> "Colin Powell on Civil Rights," On The Issues, [http://www.ontheissues.org/celeb/Colin\\_Powell\\_Civil\\_Rights.htm](http://www.ontheissues.org/celeb/Colin_Powell_Civil_Rights.htm). Quoted from *My American Journey*, by Colin Powell, p. 533 Jan 1, 1995

In mid-February, former Vice President, Dick Cheney, also made supportive statements concerning repeal. Cheney explained that, "Twenty years ago the military was a strong advocate of Don't Ask Don't Tell when I was the Secretary of Defense. I think things have changed significantly since then."<sup>10</sup> Similar to Powell, Cheney said "The society has moved on" and "It's partly a generational question."<sup>11</sup> Cheney's comments are particularly striking because when asked years ago in an interview on how he would advise his lesbian daughter if she wanted to join the military, he said he would tell her not to because of her sexuality.

Both Powell and Cheney threw their support behind Gates and Mullen. "If the chiefs and commanders are comfortable with moving to change the policy," Powell said, "then I support it."<sup>12</sup> Cheney told reporters, "When the Chiefs come forward and say, 'We think we can do it,' then that strikes me that it's time to reconsider the policy."<sup>13</sup> "I'm reluctant to second-guess the military in this regard," he added: "My guess is the policy will be changed."<sup>14</sup>

Supporters of repeal are concerned about the timing for legislation to be successful. The implementation report is due to Secretary Gates on 1 December 2010. Meanwhile, Congressional mid-term elections are held in November. Democrats currently hold the majority in Congress and are considered to be more likely to pass a repeal of DADT. The November elections may result in a reduction in the Democratic majority and DADT repeal may be more difficult to pass.

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<sup>10</sup> John Nichols, "The Nation: Dick Cheney, Gay Rights Advocate," The Nation and National Public Radio (NPR), <http://www.npr.org/templates/story/story.php?storyId=123733792>.

<sup>11</sup> Nichols, "The Nation: Dick Cheney, Gay Rights Advocate."

<sup>12</sup> DeYoung, "Colin Powell Now Says Gays Should Be Able to Serve Openly in Military."

<sup>13</sup> Nichols, "The Nation: Dick Cheney, Gay Rights Advocate."

<sup>14</sup> Nichols, "The Nation: Dick Cheney, Gay Rights Advocate."

On 3 March 2010, Senators Joe Lieberman (CT-I) and Carl Levin (MI-D) introduced a bill to the Senate called the Military Readiness Enhancement Act (MREA) (see appendix B).<sup>15</sup> It is nearly identical to one which has circulated in the House of Representatives for the past couple of years (see appendix C). The current House version is sponsored by an Iraqi war veteran, Representative Patrick Murphy (PA-D). While MREA has enough co-signers in the House of Representatives to pass the bill, the Senate equivalent currently lacks sufficient votes for passage.

Meanwhile, Secretary Gates implemented some changes to the DADT policies in order to make the interim situation more equitable. While no one was officially ordering a moratorium on DADT, at least the process for military separations could be slowed until repeal occurs. Previously, service members could be removed from service based on accusations from an outside party such as a jilted lover. Secretary Gates updated the DADT policies to make it more difficult for a service member to be removed due to third party revelations likely fueled by revenge. Third party revelations would be ignored unless the accuser agreed to make a statement under oath. Also, it would now take a flag officer or general officer in the military to initiate the investigation. Essentially, the evidence would need to be stronger and the initiator higher ranking, making it more difficult to remove persons who otherwise generally abided by DADT and did not verbally implicate themselves.

Supporters of repealing DADT began discussing getting MREA included in the National Defense Authorization Act (NDAA), under consideration in May and June. The NDAA must pass and thus many see it as the best chance of a policy change accomplished before the November 2010 elections. In early May 2010, however, Secretary Gates strongly urged Congress to wait until after the research committee

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<sup>15</sup> Kevin Nix, "History Made as Sen. Lieberman Introduces "Don't Ask, Don't Tell" Repeal Bill," *Servicemembers Legal Defense Network* (2010), <http://www.sldn.org/news/archives/history-made-as-sen-lieberman-introduces-dont-ask-dont-tell-repeal-bi/>.

finished its report due in December before enacting any legislation. He assured Congress the report was not about *whether* to repeal DADT but rather *how* to effectively implement a new policy of nondiscrimination. He argued that passing legislation now would be unfair to service members and their families who have yet to have their voices heard.

On 27 and 28 May 2010, Congress voted on including an amendment to the National Defense Authorization Act for fiscal year 2011. The House of Representatives and the Senate Armed Services Committee both voted to include it in the act. The amendment has a provision that directs the repeal of DADT but allows Gates' review board to finish their report. It also gives the military 60 days to comply upon enactment. While this is a closer step to repeal, the entire Senate still needs to vote. Meanwhile, DADT is still in force.

The United States appears poised to repeal DADT and replace it with a policy of nondiscrimination based on sexual orientation. The President, several key senior military officials, and some prominent members of the opposing political party support repealing DADT. Secretary Gates has convened a board to study how best to implement a new policy, not whether or not to do so. On 1 December, the US military will have a roadmap for implementing the repeal of DADT. This roadmap should include cognitive desegregation training as the centerpiece of its enactment provisions. This training would be implemented upon compliance with the new mandate in 2011.

## Definitions and Assumptions

DADT is short for “Don’t Ask, Don’t Tell, Don’t Pursue, Don’t Harass.”<sup>16</sup> DADT collectively refers to a statute and several DOD instructions that implement the statute. Throughout this thesis, Title 10 of the United States Code (USC), section 654, entitled “Policy concerning homosexuality in the armed services,” will be referred to as the DADT *statute*. The DOD policies which govern implementing the DADT statute within the military will be referred to as the DADT *policies*.

In the next chapter, I will analyze the official DADT and MREA definitions of homosexuality, bisexuality, and sexual orientation. For now, some brief definitions from human sexuality studies should suffice. *Sexual orientation* is an individual’s pattern of sexual and emotional attraction based on the gender of his or her partner.<sup>17</sup> It is an internal understanding and often falls into the categories of heterosexual, homosexual, and bisexual. *Heterosexuality* refers to sexual and emotional attraction between males and females; *Homosexuality* refers to sexual and emotional attraction between persons of the same sex; *Bisexuality* is sexual and emotional attraction to both males and females.<sup>18</sup>

Persons who publically acknowledge or reveal their sexual orientation or related activity are said to be *open* about it. Since the majority of American society is heterosexual, it is often non-consequential for a person with a heterosexual orientation or sexual

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<sup>16</sup> Don’t Tell can be derived from *Title 10, Section 654: Policy Concerning Homosexuality in the Armed Forces*. Don’t Ask and Don’t Pursue can be derived from DODD 1304.26. Qualification Standards for Enlistment, Appointment, and Induction; DODD 1332.14. "Enlisted Administrative Separations."; and DODD 1332.30 "Separation of Regular Commissioned Officers For Cause." Don’t Harass can be derived from the "Memorandum for Secretaries of the Military Departments, Chairman of the Joint Chiefs of Staff, Inspector General of the Department of Defense" (SUBJECT: Guidelines for Investigating Threats Against or Harassment of Service Members Based on Alleged Homosexuality) (August 12, 1999). For online access to these document, see the Stanford ""Don't Ask, Don't Tell, Don't Pursue" Digital Law Project," <http://dont.stanford.edu/doclist.html>.

<sup>17</sup> William L. Yarber, Barbara J. Sayad, and Bryan Strong, *Human Sexuality: Diversity in Contemporary America*, 7th ed. (New York, NY: McGraw-Hill Higher Education, 2009), 15.

<sup>18</sup> Yarber, Sayad, and Strong, *Human Sexuality*, 15.

practices to be open about it. There is, however, in most social circles, a stigma about persons with homosexual or bisexual orientations and many choose to keep it private, discrete, or closeted. Therefore, *open* or *out* is more prevalently used to describe a person who publically acknowledges or does not actively hide their non-heterosexual orientation and related activities. While the debate generally discusses *open* gays, lesbians, and bisexuals, I may also use *known* homosexuals as an equivalent throughout this thesis.

To express the converse, I will use the words *masked*, *unknown*, or *closeted* to refer to gay people who choose to be discreet about their sexual orientation. It is true that simply choosing to keep one's sexual orientation quiet does not equate to masking it; however, many gays, lesbians, and bisexuals, in order to dissuade suspicion as they are fearful of discovery, may try to appear more heterosexual. For instance, a gay man may take a female friend to the military ball or social gathering in an effort to be less sexually ambiguous. See chapter one for further discussions about perceptions and sexuality.

There is one overarching assumption made in this thesis. If DADT gets repealed and replaced with a policy of nondiscrimination based on sexual orientation, it is assumed it is because Congress deemed it to be more strategically beneficial to national security and the military's readiness to go to war. In this thesis, I examine arguments for the repeal of DADT and analyze them for the strategic utility of nondiscrimination. I also examine arguments against repealing DADT to discern fears and concerns which cognitive desegregation training may address and allay.

## **Limitations of the Study**

This thesis focuses upon military training and sexual orientation as an aspect of human sexuality.<sup>19</sup> While there will be some discussion concerning gender roles and gender expression, it will be about perceptions in relation to sexual orientation. This study will not address antidiscrimination based upon gender expression, nor examine inclusion of openly self-identified transgendered persons in service.<sup>20</sup>

Along those same lines, this paper will not address inclusion of intersexed persons or others with non-standard genitals. The US military maintains regulations that medically disqualify people whose genitals do not fall within a norm for the male-female dichotomy. For instance, a man with an undescended testicle is ineligible for military service. It is true there are health risks associated with such a condition, but there are also social stigmas that he is somehow less of a man (see chapter one for a treatment of perceptions and gender). There are waivers available for some cases, but perhaps the military will make adjustments to its policy as medical science progresses and social stigmas relax.

This study advocates a DOD-wide cognitive desegregation training program, recommending core content for the program. Each branch of the military may wish to add service specific content; however, the core strategic messages must remain unchanged. For instance, of the four

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<sup>19</sup> Yarber, Sayad, and Strong, *Human Sexuality*. I selected this textbook as my primary source as it is used by the American Medical Student Association's 2010 Sexual Scholars program, empowering future doctors to provide the best care possible across the spectrum of human sexuality. It provides a cross-cultural look at human sexuality and includes objective analysis of sexual orientations and gender in American culture.

<sup>20</sup> Transgendered individuals appear or behave in ways that do not conform to the gender role ascribed to their particular sex. Yarber, Sayad, and Strong, *Human Sexuality*, 17. If a person openly identifies as transgender, the military considers this to be a "sexual gender and identity disorder" and is a disqualifying psychiatric condition. Transgendered persons are sometimes discharged under DADT due to misperceptions about their sexual orientation. *The Survival Guide: A Comprehensive Guide To "Don't Ask, Don't Tell" And Related Military Policies*, 5th ed. (Servicemembers Legal Defense Network (SLDN), 2007), 17. The American Psychiatric Association considers some transgendered persons to have "gender dysphoria;" however, removing this diagnosis is under consideration for the fifth edition of the Diagnostic and Statistical Manual for Mental Disorders. "Diagnostic and Statistical Manual of Mental Disorders (DSM-IV)," American Psychiatric Association, <http://allpsych.com/disorders/dsm.html>.

service chiefs, the Marines Corps Commandant, General James T. Conway, is the only one to oppose repeal of DADT. His professional opinion is that DADT works and he does not support change. He further expressed his opposition by stating that if DADT gets repealed, he will not force heterosexual Marines to bunk with open gay Marines.<sup>21</sup> Conway is due to retire this summer, but his leadership thus far has set the stage for the Marines. Therefore, the Marines' version of cognitive desegregation training will need to address the mandatory double-bunk for singles concerns unique to the Marines.

This thesis does not address marriage, civil unions, or domestic partnership benefits for gays, lesbians, and bisexuals. MREA specifically includes a section stating that, because of the Defense of Marriage Act (DOMA), the military will not be required to implement such benefits. DOMA is the federal mandate that states do not have to recognize same-sex marriages from other states. It is under scrutiny for infringing on states' authority and could be repealed in the future. This has many opponents of same-sex marriage up in arms and can contribute to slippery-slope arguments surrounding repeal of DADT. The Johnson-Ham review board is looking at partner benefits and will include recommendations in its 1 December report.

Finally, this thesis does not include discussions about social misconduct issues such as adultery, scandalous dating, cohabitation, fraternization, etc. Some critics contend that if DADT gets repealed, then other sexual privacy related social norms within the Unified Code of Military Justice (UCMJ) will come under scrutiny and possibly fall.<sup>22</sup> Essentially, they argue a domino or slippery slope effect, where if open

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<sup>21</sup> Craig Whitlock, "General: Marines Might Be Offered Single Rooms If 'Don't Tell' Is Repealed," *Washington Post*, 27 Mar 2010.

<sup>22</sup> Matthew Cashdollar, "Not Yes or No, but What If: An Examination of Policies and Issues to Be Addressed with Open Homosexuality in the US Military," in *Attitudes Aren't Free: Thinking Deeply About Diversity in the U.S. Armed Forces*, ed. James E. Parco and David A. Levy (Maxwell AFB, AL: Air University Press, 2010), 174.

gay people are allowed to serve then the military will socially degrade and begin to lose its self-claimed moral high-ground. Critics argue married couples will press to have adultery removed from the UCMJ and laws surrounding dating and cohabitation, which generally already enjoy a blind eye to enforcement, will be challenged. When Britain was directed to lift its ban on open homosexuals in 2000, these sexual privacy issues were indeed addressed within their military. Britain's Armed Forces Social Code of Conduct includes a Service Test to judge the severity of such social misconduct cases (see appendix D).

### **Summary**

Several elements must be examined along the journey to a training program recommendation. First, in chapter one, I analyze the current and possible future statutes regarding sexual orientation and military service and show how they politically construct the cognitive segregation model. Repealing DADT will result in a cognitive desegregation of the armed services, so chapter two includes considerations of personal beliefs and their compatibility with cognitive desegregation. Recommendations surrounding implementing a training program can be found in chapter three while chapter four contains a description of the core training content.

## Chapter 1

### **Cognitive Segregation**

*If a person chooses to come into the military and does not practice a homosexual lifestyle, practices celibacy, does not try and announce openly that they are homosexual, does not choose to marry someone of the same sex, then for all intents and purposes they are not acting like a homosexual.*

General (retired) Norman Schwarzkopf

This chapter examines how laws have created a political construct of masked or unofficial gays, lesbians, and bisexuals who, like Schwarzkopf says above, do not act like homosexuals.<sup>1</sup> The cognitive segregation model will aid military leadership and trainers in understanding the transition from DADT to the Military Readiness Enhancement Act (MREA), a law of nondiscrimination based on sexual orientation, whether real or perceived.

### **The Statutes or Laws**

Laws and policies set the tone in an institution and drive training content. The two main laws related to homosexuals and the military are the sodomy law in the Uniform Code of Military Justice (UCMJ) and the DADT statute itself. Both address sexual conduct and do not outlaw non-heterosexual orientations.

### **Sodomy Law**

Article 125 of the UCMJ governs specific sexual acts banned in the military (see appendix E). According to article 125, sodomy is oral sex, anal sex, bestiality, or copulation with any other body opening besides

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<sup>1</sup> Committee on Armed Services, *Policy Concerning Homosexuality in the Armed Forces: Hearings before the Committee on Armed Services, United States Senate*, second session, 1993, 618.

the sexual parts.<sup>2</sup> Many people equate anal sex with gay men and believe the sodomy law applies only to homosexuals or bisexuals; however the statute clearly states it applies to both opposite and same-sex partners.

There are no indications that article 125 will be repealed in conjunction with the proposed repeal of DADT. Perhaps this will relieve those concerned with a domino effect on other sexual privacy issues in the UCMJ, such as adultery and cohabitation.

The sodomy law is difficult to enforce as most consensual sexual activity, regardless of sexual orientation, occurs in private. If service members are caught having public sex, regardless of sexual orientation and whether it is sodomy or not, they will already face disciplinary action for unprofessional conduct. Getting caught committing sodomy will simply exacerbate the charges.

In a 2003 case, *Lawrence vs. Texas*, the US Supreme Court ruled state sodomy laws to be unconstitutional.<sup>3</sup> The court found that the fourteenth amendment protects consensual private sex and that due process must be followed applying the sodomy laws to both same and opposite sex couples. The Supreme Court ruling either struck down or rendered state sodomy laws to be unenforceable. This does not affect the UCMJ as the military falls under separate rulings by Congress; however, it does stand as an example of how American society is changing.

### **DADT Statute**

The law regarding the eligibility of homosexuals and bisexuals for military service is the DADT statute (see appendix A). As already mentioned, a member cannot be separated for a non-heterosexual

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<sup>2</sup> *Manual for Courts-Martial (MCM), United States*, 2008 ed. (Joint Service Committee on Military Justice, 2008), IV-96.

<sup>3</sup> "Lawrence V. Texas," (US Supreme Court, 2003).

orientation but can be separated for homosexual conduct.<sup>4</sup> Homosexual conduct can include acts which fall under article 125 of the UCMJ.

The DADT statute includes definitions which politically construct an official homosexual or bisexual (see appendix A).<sup>5</sup> A *homosexual* is a person, regardless of sex, who engages in, attempts to engage in, has a propensity to engage in, or intends to engage in homosexual acts.<sup>6</sup> This includes the terms gay and lesbian. A *bisexual* is a person who engages in, attempts to engage in, has a propensity to engage in, or intends to engage in homosexual and heterosexual acts.<sup>7</sup> A *homosexual act* is any bodily contact, actively undertaken or passively permitted, between members of the same sex for the purpose of satisfying sexual desires and any bodily contact that a reasonable person would understand to demonstrate a propensity or intent to engage in such an act.<sup>8</sup>

The DADT statute does not define a heterosexual, but it can be inferred that a heterosexual is a person, regardless of sex, who engages in, attempts to engage in, has a propensity to engage in, or intends to engage in heterosexual acts. It follows that a heterosexual act is any bodily contact, actively undertaken or passively permitted, between members of the opposite sex for the purpose of satisfying sexual desires and any bodily contact that a reasonable person would understand to demonstrate a propensity or intent to engage in such an act.

The DADT policies include additional definitions to aid in implementing the DADT statute. Specifically, the DADT policies deconstruct the DADT statute's definition of homosexual into two parts.

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<sup>4</sup> Rebecca R. Vernon and John A. Carr, eds., *The Military Commander and the Law*, 8th ed. (Maxwell AFB, AL: AFJAGS Press, 2006), 83-84.

<sup>5</sup> Gary L. Lehring, *Officially Gay: The Political Construction of Sexuality by the U.S. Military* (Philadelphia, PA: Temple University Press, 2003). This book is inspired by the phrases of *official* gay and *unofficial* gay as political constructs from DADT. "Political construction" is not intended to insinuate differences in political parties. It is intended to differentiate from social construction of terminology.

<sup>6</sup> *Title 10, Section 654: Policy Concerning Homosexuality in the Armed Forces*.

<sup>7</sup> *Title 10, Section 654: Policy Concerning Homosexuality in the Armed Forces*.

<sup>8</sup> *Title 10, Section 654: Policy Concerning Homosexuality in the Armed Forces*.

*Sexual orientation* is an abstract sexual preference for persons of a particular sex and is distinct from a propensity or intent to engage in sexual acts.<sup>9</sup> According to DADT policy, “propensity to engage in homosexual acts” means more than just an abstract preference or desire to engage in homosexual acts; it indicates a likelihood that a person engages in or will engage in homosexual acts.<sup>10</sup>

The DADT policies therefore make a clearer distinction between being a person with a homosexual orientation versus being a person who engages in homosexual acts. In other words, sexual orientation and sexual acts are separate concepts, the first being an internal understanding and the latter being externally observable behavior. This separation of sexual orientation and behavior is also reflected throughout various disciplines such as medicine, psychology, sociology, anthropology, and theology.

Definition distinctions are important to understand as semantics can muddy the discussion. For instance some authors interpret the DADT statute to say homosexuals are not eligible for military service.<sup>11</sup> The DADT statute does not clearly state this, and instead focuses upon standards of conduct and behavior. The DADT statute findings section notes that the prohibition against homosexual *conduct* is a longstanding element of military law and the presence of persons who *demonstrate* a propensity or intent to engage in homosexual *acts* are the subject of discussion.<sup>12</sup> It further lists the prohibited actions that would lead to dismissal: statements revealing a non-heterosexual orientation, discovered homosexual sexual acts, and marriage or similar ceremony.

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<sup>9</sup> "DODI 1332.14 - Enlisted Administrative Separations," (Department of Defense, 2010).

<sup>10</sup> "DODI 1332.14 - Enlisted Administrative Separations."

<sup>11</sup> Elaine Donnelly, "Defending the Culture of the Military," in *Attitudes Aren't Free: Thinking Deeply About Diversity in the U.S. Armed Forces*, ed. James E. Parco and David A. Levy (Maxwell AFB, AL: Air University Press, 2010), 250. Donnelly claims the DADT statute explicitly prohibits homosexuals and bisexuals from serving, regardless of orientation or conduct, and the DADT polices distorted Congress's intent.

<sup>12</sup> *Title 10, Section 654: Policy Concerning Homosexuality in the Armed Forces*. Emphasis added.

The point is that same-sex sexual acts are prohibited, regardless of sexual orientation. For instance, people who identify as heterosexual may choose to engage in same-sex sexual acts when opposite sex partners are not available. This activity has been observed in prison systems.<sup>13</sup> The US Navy is often the butt of jokes with sayings such as “It’s not gay once you’re underway,” alluding that if there are no women on board then the cultural norm includes temporary same-sex activity.

### **Cognitive Segregation Model**

DADT creates a cognitive segregation between heterosexuals and homosexuals in the military. In the introduction, cognitive segregation and desegregation were briefly mentioned to argue that homosexuals are already integrated into the military. Repeal of DADT will desegregate service members rather than integrate homosexuals as if they were new to the ranks.

*Cognitive segregation* encompasses the spirit of “ignorance is bliss” or “out of sight, out of mind.” It also buffers heterosexual people from fear of the unknown. It means no one is supposed to know or learn that gays, lesbians, and bisexuals may be working among them. In other words, heterosexual and homosexual service members are separated by knowledge and certainty about homosexual service members’ sexual orientation.

As previously alluded to, DADT politically constructed definitions of officially gay people excluded from service and unofficial gay people within the military. *Officially gay* persons are those who verbally acknowledge their sexual orientation or do not conceal their same-sex relationships. Individuals in service become officially gay if they are caught violating one of the three aspects of DADT: statements, acts, or

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<sup>13</sup> Om Prakash, "The Efficacy of "Don't Ask, Don't Tell", " *Joint Forces Quarterly*, no. 55 (2009): 92.

marriage. Gays who are known, open, or out are considered officially gay.

*Unofficial gay* people are those whose sexual orientation is not known, i.e. those who choose to conceal their sexuality in accordance with DADT. Unofficial gay military members may also *mask* their sexuality in order to appear more heterosexual. Masking could entail attempts to shape other's perceptions like having a picture on their desk of an opposite-sex friend or could extend to outright lies about having an opposite-sexed significant other.

**Table 1: Cognitive Segregation, Model 1 (Sexuality)**

Case #	Internal		External		Service Eligible?	Perceptions
	Sexual Orientation	Behaviors	Sexual Orientation			
1.1	Heterosexual	Observed	Professed	YES		
1.2	Heterosexual	Observed	Not Professed	YES		
1.3	Heterosexual	Not Observed	Professed	YES		
1.4	Heterosexual	Not Observed	Not Professed	YES	Ambiguous, Default Heterosexual	
1.5	Homosexual / Bisexual	Not Observed	Not Professed	YES	Ambiguous, Default Heterosexual	
1.6	Homosexual / Bisexual	Not Observed	Professed	NO		
1.7	Homosexual / Bisexual	Observed	Not Professed	NO		
1.8	Homosexual / Bisexual	Observed	Professed	NO		

*Source: Author's Original Work*

Table 1 displays eight cases and evaluation criteria for service eligibility. The evaluation criteria are derived from DADT and are based upon social cues or observable sexuality related behaviors such as marriage, dating partners, or existence of children. It also includes statements professing one's sexual orientation or attractions to a

particular gender. Later in this chapter, the model will be expanded to address perceptions in relation to gender expression.

Cases 1.1 through 1.4 represent heterosexuals who are considered eligible for military service based on their sexual orientation, among other things. Also, a bisexual person may be involved in an opposite sex relationship and yet appear to fall within cases one through three. Case 1.4 is unique in that this person has not given social cues or released information, whether statements or behavior, for coworkers to know his or her sexuality for certain. This sexual ambiguity may raise eyebrows but the service member does not need to worry about separation since he or she is a heterosexual.

Cases 1.6 through 1.8 represent homosexuals and bisexuals who are officially gay. They have made public their non-heterosexual orientation either by statements or being seen making same-sex contact that a reasonable person would deem to be homosexual conduct such as kissing.

Case 1.5 is the homosexual General Schwarzkopf described in the epitaph at the beginning of this chapter. If these gay persons keep their sexual orientation quiet or private, are celibate or at least discrete, and do not attempt same-sex marriage or an equivalent, then they are not acting gay and can be perceived as a heterosexual by default. Their sexuality is ambiguous and they are not throwing it in anyone's face. These are the often masked or unofficial gays the military deems acceptable for military service. Because they are perceived as default heterosexuals as in case 1.4, their presence will not adversely affect unit cohesion according to DADT.

### **Military Readiness Enhancement Act**

If DADT is repealed, it will be replaced by the Military Readiness Enhancement Act (MREA) (see appendix B and appendix C). The purpose of MREA is to enhance the readiness of the Armed Forces by

replacing DADT with a policy of nondiscrimination on the basis of sexual orientation.<sup>14</sup>

Some highlights of MREA are that it identifies some military processes that must be conducted without regard to sexual orientation, such as accessions, promotions, and performance reports. It directs the addition of sexual orientation to nondiscrimination criteria such as race, religion, and sex in the United States Code as well as within military regulations. Also, MREA includes a provision that will allow members separated under DADT to reapply for service.

MREA introduces another definition of sexual orientation. According to MREA, sexual orientation means heterosexuality, homosexuality, or bisexuality, whether the orientation is *real* or *perceived*, and includes statements and consensual sexual conduct manifesting as heterosexuality, homosexuality, or bisexuality.<sup>15</sup> This definition of sexual orientation differs from the one in the DADT policies in that the MREA definition combines orientation and behaviors under the one term of sexual orientation. This difference is not problematic, since if MREA is passed, there is no longer a need to distinguish between keeping an internally understood orientation silent while refraining from public acknowledgement.

### **Real or Perceived: Sexuality and Gender**

There is one key phrase worth exploring in the MREA, which is used to describe whether a person's sexual orientation is *real* or *perceived*. In the cognitive segregation model presented thus far, cases of *real* sexual orientation would be those known via statements, observed behaviors, or both. Also, there are two cases of *perceived* ambiguous sexuality based on lack of information or lack of observed sexuality

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<sup>14</sup> *Military Readiness Enhancement Act*, 1st Session, H.R. 1283, S. 3065.

<sup>15</sup> *Military Readiness Enhancement Act*.

related behaviors. Another external behavior important to perceptions around sexual orientation is gender expression. Understanding gender expression is central in cognitive desegregation training, especially in discussing violence and harassment based upon stereotypes.

There are a collection of definitions around sexuality and gender that should be detailed before proceeding. According to human sexuality studies, humans are generally sexual beings and everyone has a sexual orientation.<sup>16</sup> There are four acknowledged sexual orientations and in order by predominance, they are heterosexual, bisexual, homosexual, and asexual. An *asexual* person has low to no sexual or emotional attraction to others regardless of sex.<sup>17</sup> Sexual orientation identity or simply *sexual identity* refers to a person's self-label or self-identification as a heterosexual, homosexual, bisexual, or asexual.<sup>18</sup>

One's *assigned gender* is the gender given by others at birth, is based on genetic and anatomical sex, and is referred to as male, female, or intersex.<sup>19</sup> *Gender identity* is one's internal sense of maleness or being a man or femaleness or being a woman. *Gender expression* or gender presentation, either through bodily habits or personality, is the gender perceived by others.<sup>20</sup>

*Gender roles* are the attitudes, behaviors, rights, and responsibilities that a particular cultural groups associate with each assigned gender.<sup>21</sup> A *gender-role stereotype* is a rigidly held, oversimplified, and over-generalized belief about how each gender should behave.<sup>22</sup> If persons do not fulfill expectations of their gender role, they may suffer a range of social consequences. See Figure 1 for a graphical

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<sup>16</sup> Yarber, Sayad, and Strong, *Human Sexuality*, 15. Liz Winfeld, ed., *Training Tough Topics* (New York, NY: AMACOM, 2005), 504.

<sup>17</sup> Winfeld, ed., *Training Tough Topics*, 505.

<sup>18</sup> Yarber, Sayad, and Strong, *Human Sexuality*, 40.

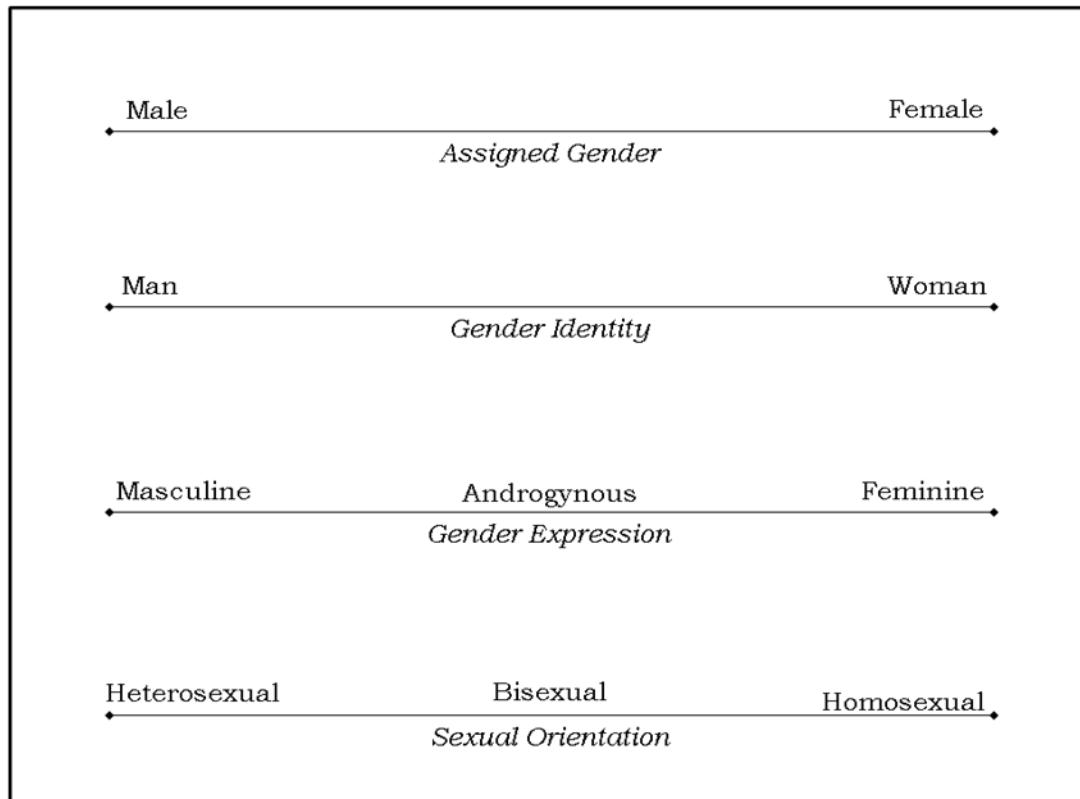
<sup>19</sup> Yarber, Sayad, and Strong, *Human Sexuality*, 127.

<sup>20</sup> Yarber, Sayad, and Strong, *Human Sexuality*, 128.

<sup>21</sup> Yarber, Sayad, and Strong, *Human Sexuality*, 127.

<sup>22</sup> Yarber, Sayad, and Strong, *Human Sexuality*, 128.

representation of the independent concepts of assigned gender, gender identity, gender expression, and sexual orientation.



**Figure 1: Independent Concepts of Gender and Sexuality**

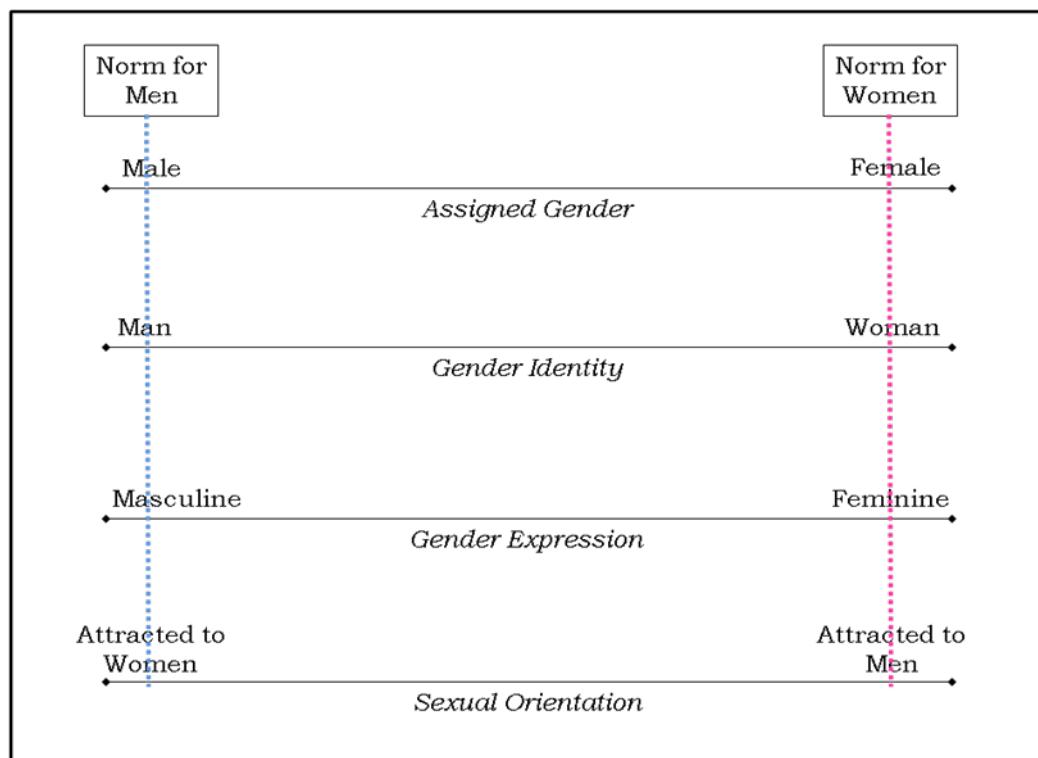
Source: *Influenced by a diagram in Training Tough Topics, edited by Liz Winfield, page 389*

Notice in Figure 1 how each identifier is on a continuum between binaries. Human sexuality studies generally recognize that an element can fall anywhere on the continuum. The military enforces the gender binary that only males and females are eligible for service i.e. no intersex. The military does not allow open transgendered persons to serve, so only known males who self identify as men and known females who self identify as women are eligible to serve.

Concerning gender expression in the military, men are generally masculine and women are generally feminine while some degree of

androgyny is acceptable since the uniform and dress and appearance regulations reduce ways to express gender.

Assigned gender, gender identity, and gender expression are all conceptually independent of sexual orientation (see Figure 1).<sup>23</sup> To the contrary, people frequently believe these concepts are closely related to sexual orientation (see Figure 2). Many would agree the alignment of assigned gender, gender identity, gender expression, sexual orientation depicted in Figure 2 is a traditional or commonly held view. These combinations can be represented as male-man-masculine-attracted to women (heterosexual) and female-woman-feminine-attracted to men (heterosexual).



**Figure 2: Common Alignment of Gender and Sexuality**

Source: Influenced by a diagram in *Training Tough Topics*, edited by Liz Winfield, page 389.

<sup>23</sup> Yarber, Sayad, and Strong, *Human Sexuality*, 131.

A common notion of gender roles assumes heterosexuality is a critical component of masculinity and femininity.<sup>24</sup> A masculine man is attracted to women and a feminine woman is attracted to men. Figure 2 shows the gender role norm for men on the left and for women on the right, represented by dotted lines crossing the separate continuums. This belief structure of a balanced assigned gender-gender identity-gender expression-sexual orientation is an example of cognitive consistency, where people feel comfortable perceiving masculine men attracted to women and vice versa.<sup>25</sup>

Given the above description of common or traditional gender roles, two beliefs emerge about homosexuality. First, if a man is gay, he cannot be masculine, and if a woman is a lesbian, she cannot be feminine. Second, if a man is gay, he must have some feminine characteristics, and if a woman is a lesbian, she must have some masculine characteristics. These beliefs imply that homosexuality is a failure to fill traditional gender roles. A *real* man is not gay; therefore, gay men are not *real* men.<sup>26</sup> The same goes for lesbians.

These beliefs constitute negative stereotypes that can wreak havoc in reality versus perceptions. They also stand as an example of cognitive dissonance. In cognitive dissonance theory, holding incompatible or opposing views at the same time is psychologically uncomfortable and people experiencing it will try to reduce dissonance, seek or create consonance, or actively avoid situations and information which would likely increase the dissonance.<sup>27</sup>

DADT can be viewed as an institutionalized move to reduce cognitive dissonance about gender roles and sexuality, among other

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<sup>24</sup> Yarber, Sayad, and Strong, *Human Sexuality*, 131.

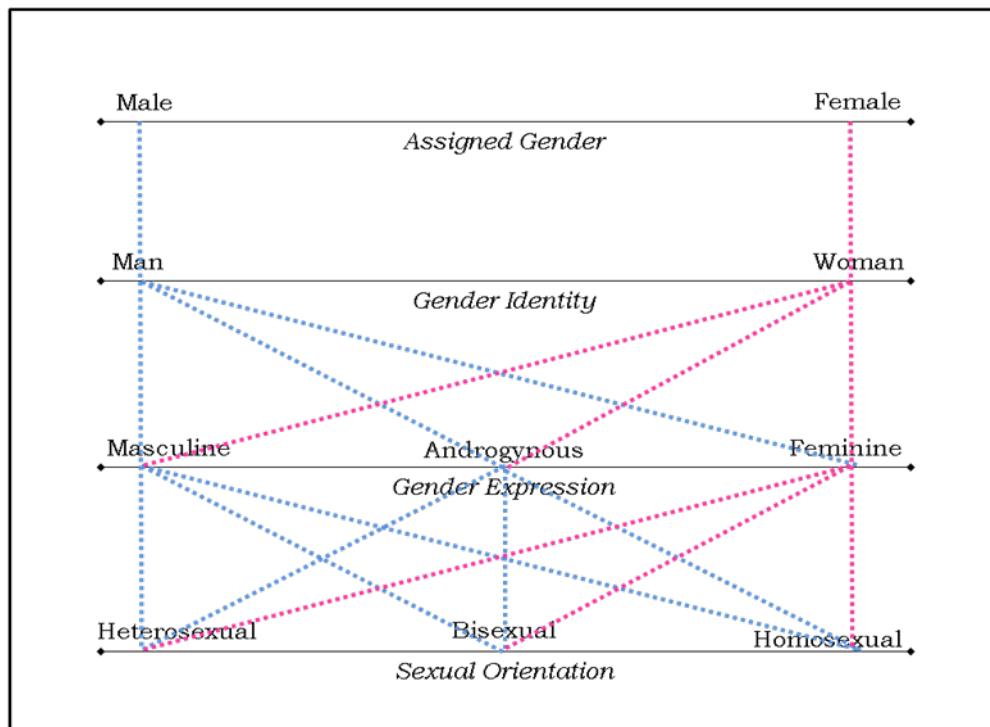
<sup>25</sup> Robert Jervis, *Perception and Misperception in International Politics* (Princeton, NJ: Princeton University Press, 1976), 117-18.

<sup>26</sup> Yarber, Sayad, and Strong, *Human Sexuality*, 131. This entire paragraph is paraphrased from the textbook.

<sup>27</sup> Jervis, *Perception and Misperception in International Politics*, 382.

things. The military is a predominately masculine institution and service to country is a part of the traditional gender role of what constitutes real men. Continuing to attract recruits who wish to prove they are real men is strategically useful for the military. Therefore, gay men, who by this rationale cannot be real men, were banned from serving.

Negative stereotypes can fuel anti-gay prejudice and homophobia. *Anti-gay prejudice* is a strong dislike, fear, or hatred of gay, lesbian, or bisexuals while *homophobia* is an irrational or phobic fear of gay, lesbian, bisexual people.<sup>28</sup> Not all anti-gay feelings are homophobic but they may be unreasonable, biased, or be within the norms of a biased culture or organization such as the military. As a belief system, anti-gay prejudice justifies discrimination based on sexual orientation and sometimes results in harassment and violence known as *gay-bashing* or *queer-bashing*.



**Figure 3: Independent Concepts, Many Combinations**

Source: Author's Original Work

<sup>28</sup> Yarber, Sayad, and Strong, *Human Sexuality*, 572.

The bottom line is that human sexuality is complex, consisting of different sexual orientations and aspects of gender. See Figure 3 for examples of combinations under consideration in this thesis. Contrary to stereotypes, there exist in this world masculine or *butch* men who are sexually oriented towards other men. There are feminine or *femme* women who are sexually oriented towards other women. Every combination exists.

### **Cognitive Segregation Model Expanded**

Below is a table expanding the cognitive segregation model to include gender expression (see Table 2). Cases 2.1, 2.3, and 2.5 are heterosexuals who fall within the traditional alignment of assigned gender, gender identity, gender expression, and sexual orientation. Case 2.7 may raise eyebrows because these individuals are sexually ambiguous, but since they embody the traditional alignment of at least assigned gender, gender identity, and gender expression, they are usually left alone (or, often benignly perceived by those asking, socially pressed for information about their dating status).

Cases 2.2, 2.4, and 2.6 are instances where known heterosexuals' gender expression does not align perfectly with their assigned gender, often raising suspicions. These heterosexually identified people may receive social pressure to conform to gender expression norms or be teased for appearing gay. Military hazing rituals during basic training sometimes leverage the gender role expectations and challenge male recruits to "man up" and stop acting like a girl or acting gay. These rituals, if not properly understood, can enforce negative stereotypes, which may lead to harassment and violence against gay service members.

**Table 2: Cognitive Segregation: Model 2 (Sexuality and Gender)**

Case#	Internal		External			Service Eligible?	Perceptions
	Sexual Orientation	Behaviors	Sexual Orientation	Gender Expression			
2.1	Heterosexual	Observed	Professed	Aligned	YES		
2.2	Heterosexual	Observed	Professed	Not Aligned	YES	Suspicious	
2.3	Heterosexual	Observed	Not Professed	Aligned	YES		
2.4	Heterosexual	Observed	Not Professed	Not Aligned	YES	Suspicious	
2.5	Heterosexual	Not Observed	Professed	Aligned	YES		
2.6	Heterosexual	Not Observed	Professed	Not Aligned	YES	Suspicious	
2.7	Heterosexual	Not Observed	Not Professed	Aligned	YES	Ambiguous, Suspicious	
2.8	Heterosexual	Not Observed	Not Professed	Not Aligned	YES	Ambiguous, Suspicious, Default Homosexual, Stereotypes	
2.9	Homosexual	Not Observed	Not Professed	Aligned	YES	Ambiguous, Default Heterosexual	
2.10	Homosexual	Not Observed	Not Professed	Not Aligned	YES	Ambiguous, Suspicious, Default Homosexual, Stereotypes	
2.11	Homosexual	Not Observed	Professed	Aligned	NO		
2.12	Homosexual	Not Observed	Professed	Not Aligned	NO	Stereotypes	
2.13	Homosexual	Observed	Not Professed	Aligned	NO		
2.14	Homosexual	Observed	Professed	Not Aligned	NO	Stereotypes	
2.15	Homosexual	Observed	Professed	Aligned	NO		
2.16	Homosexual	Observed	Professed	Not Aligned	NO	Stereotypes	

*Source: Author's Original Work*

Case 2.8, although heterosexual, is in danger of harassment or gay-bashing. Because these persons are sexually ambiguous and their gender expression does not align with their assigned gender, they are

most likely assumed to be masked or unofficial gay persons. Their gender expression causes them to lose their default heterosexual status.

Case 2.9 is essentially unchanged from the previous model (case 1.5). This is the currently acceptable military homosexual, the one who does not act like a homosexual and appears heterosexual by default because at least his or her assigned gender, gender identity, and gender expression has a traditional alignment.

Case 2.10, although an acceptable homosexual under DADT standards, may meet with difficulties in the military due to negative stereotypes. Like case 2.8, this person is sexually ambiguous and his or her gender expression does not align with their assigned gender. They are most likely assumed to be homosexuals and are in danger of harassment or gay-bashing.

Cases 2.11 through 2.16 constitute the official, known, or open gays who are currently banned under DADT. Cases 2.12, 2.14, and 2.16 constitute known gays who embody the negative stereotypes discussed in the previous section and may be in danger of harassment or gay-bashing once DADT is repealed. Cases 2.11, 2.13, and 2.15 of the official, known, or open gays will likely have the least difficulty when DADT is repealed since their assigned gender aligns with their gender expression.

### **Implications for Training**

Perception is everything. Cognitive dissonance, anti-gay prejudice, and homophobia will be challenges in cognitive desegregation training. Some people's beliefs regarding gender roles overlap with their religious or philosophical beliefs, further complicating the matter.

A positive view is that the military generally makes skill-based assessments. If members with ambiguous sexuality do a good job and keep their private lives private, then they will generally be left alone. This is a likely reason for why some people believe DADT is working. A training program that stresses valuing members, based on their skills

and adherence to the mission, will be most effective in implementing a new policy.

Separating gender and sexuality will be an important point to make in training in order to dismantle stereotypes that can lead to harassment and violence. Empowering service men and women through training to know and understand the nondiscriminatory behaviors expected of them will prove most effective.

Ultimately, service members must be assured they can retain their gender and sexuality beliefs for themselves, but they cannot expect others to conform to their personal views. They must also be reassured that the military still supports their views, among diverse others, so they can still feel group inclusion. A training model that stresses behaviors over beliefs will best allow for this.

## Chapter 2

### Considerations

*In the almost seventeen years since the "Don't Ask, Don't Tell" legislation was passed, attitudes and circumstances have changed. For the past two years, I have expressed the view that it was time for the law to be reviewed by Congress.*

General (retired) Colin Powell  
Former Chairman of the Joint Chiefs of Staff

This chapter represents strategic level considerations for the repeal of DADT in relation to cognitive desegregation training (as detailed in chapter four). There are a great number of sources that extensively analyze various aspects of the debate about gays, lesbians, and bisexuals serving openly in the military.<sup>1</sup> There are many that raise issues such as moral and privacy concerns for heterosexual service members while others argue how it will be good for national security. It is beyond the scope of this thesis to recount all of the arguments for and against DADT; however, a brief examination of the strategic utility of repeal will aid cognitive desegregation training. It is important for leaders, trainers, and resources professionals to be versed in a variety of perspectives, but this chapter will otherwise focus on ideologies and their compatibility with military service.

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<sup>1</sup> Recommendations for history and perspectives about homosexuality and the military: James E. Parco and David A. Levy, eds., *Attitudes Aren't Free: Thinking Deeply About Diversity in the U.S. Armed Forces* (Maxwell AFB, AL: Air University Press, 2010). Gregory M. Herek, Jared B. Jobe, and Ralph M. Carney, eds., *Out in Force: Sexual Orientation and the Military* (Chicago, IL: University of Chicago Press, 1996). Randy Shilts, *Conduct Unbecoming: Gays and Lesbians in the U.S. Military*, 1st Ballantine books ed. (New York, NY: Fawcett Columbine, 1994). Nathaniel Frank, *Unfriendly Fire: How the Gay Ban Undermines the Military and Weakens America*, 1st ed. (New York, NY: Thomas Dunne Books, 2009). John Boswell, *Christianity, Social Tolerance, and Homosexuality: Gay People in Western Europe from the Beginning of the Christian Era to the Fourteenth Century* (Chicago, IL: University of Chicago Press, 1980). Bruce Bagemihl, *Biological Exuberance: Animal Homosexuality and Natural Diversity* (New York, NY: St. Martin's Press, 1999).

## **Strategic Utility of Repealing DADT**

In the previous chapter, the Military Readiness Enhancement Act (MREA) was briefly reviewed. MREA carries with it the strategic message that national security is paramount and so is the military's readiness to maintain it. *Military readiness* means being prepared to defeat an adversary in combat. This entails having a force dedicated to the mission of national security, comprised of troops with critical skills, and large enough for effective war-fighting.

First, America needs a military of warriors prepared to make the ultimate sacrifice in defense of our nation. President Obama said it best: "I believe we need to repeal Don't Ask, Don't Tell. The key test for military service should be patriotism, a sense of duty, and a willingness to serve."<sup>2</sup> Every service member is expected to believe in mission first. Regardless of sexual orientation, if a service member is fixated on social concerns, they are not putting the mission first.

Secondly, America needs highly skilled service members. Since 1994, more than 13,500 service members have been fired under the ban, stripping the US military of critical resources such as Arabic linguists.<sup>3</sup> Repealing the ban would allow these highly trained people to apply for a return to service. Current veterans of the war in Iraq certify what matters most on the battlefield is war fighting skills, not unrelated identity attributes such as sexual orientation.<sup>4</sup> Sexual orientation has no impact on national security; however, the loss of even one critically skilled soldier can.

Finally, the US military needs more troops. America has been entrenched in two wars over the last decade. As a result, the armed forces are worn thin and the DOD is concerned about their care and

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<sup>2</sup> Matt Cover, "Obama White House Calls for Repealing Defense of Marriage Act," CBS News, <http://www.cnsnews.com/public/content/article.aspx?RsrcID=42233>.

<sup>3</sup> "Servicemembers Legal Defense Network (SLDN)," <http://www.sldn.org>.

<sup>4</sup> Bonnie Moradi and Laura Miller, *Attitudes of Iraq and Afghanistan War Veterans toward Gay and Lesbian Service Members* (Santa Barbara, CA: Palm Center, University of California, 2009).

retention.<sup>5</sup> Repealing the ban and allowing those fired to return will bring back skilled personnel who can deploy quickly, easing the strain on the over-extended military.

In February, Admiral Mike Mullen, the highest ranking military officer, stated before the Senate that “allowing homosexuals to serve openly would be the right thing to do.” Not only is it the right thing to do, but repealing DADT has the strategic utility of enhancing military readiness.

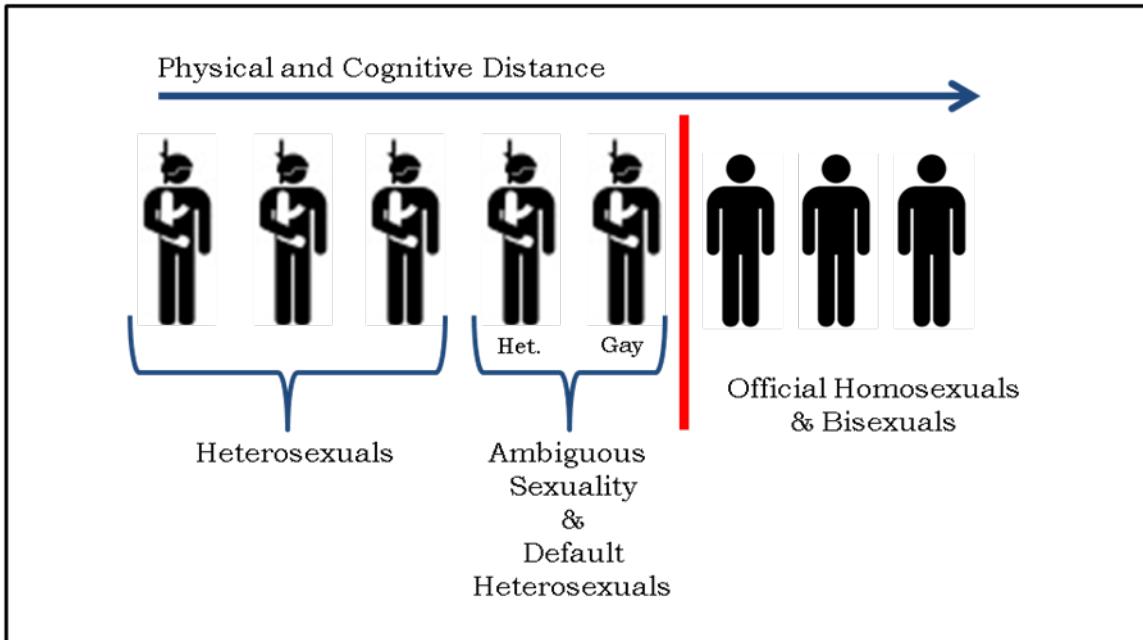
### **Proximity**

There are differences in personal beliefs, religions, philosophies, etc., which can create divides between people. People of one belief system may find those of another to be distasteful, offensive, or immoral. As mentioned in the previous chapter in cognitive dissonance theory, when experiencing dissonance, people may choose to avoid situations and information that counters what they believe. This avoidance is at the heart of the DADT cognitive segregation model.

While most religions preach tolerance and inclusion, some heterosexual people are still concerned about being in close proximity to known gay, lesbian, and bisexual people. In the military, the DADT cognitive segregation model created a comfortable distance both physically and cognitively from known gays. See Figure 4 for a graphical representation.

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<sup>5</sup> Robert M. Gates, "Quadrennial Defense Review (QDR) Report," (Washington DC: Department of Defense, 2010), 16.



**Figure 4: Cognitive Segregation and Proximity**

*Source: Author's Original Work*

From left to right, the stick figure soldiers and civilians in Figure 4 represent cases 1.1 through 1.8 of the first cognitive segregation model described in chapter 1 (see Table 1).

### Morality

Americans are split on their beliefs concerning the morality of homosexual acts. The 2010 Gallup poll surveyed respondents on whether or not they believe gay and lesbian relations are moral. The results were 52% believing it is morally acceptable while 43% believe it to be morally wrong.<sup>6</sup> While this poll was conducted among civilians, a similar divide among service members could raise issues if DADT gets repealed.

While some people are comfortable working with others who have differing beliefs regarding morality, others may not be. Service members

<sup>6</sup> Lydia Saad, "Americans' Acceptance of Gay Relations Crosses 50% Threshold," *Gallup* (2010), <http://www.gallup.com/poll/135764/Americans-Acceptance-Gay-Relations-Crosses-Threshold.aspx>.

who believe homosexual conduct is immoral may wish to avoid people they believe engage in it. If DADT is repealed and replaced, allowing gays, lesbians, and bisexuals to serve openly, some service members may feel uncomfortable.

*Open* gays, lesbians, and bisexuals were discussed in the introduction; however, the phrase “open homosexuality” can have additional connotations. When discussing military service, it means a member could tell a friend about their sexual orientation or introduce them to their same-sex partner. When looked at literally, some could interpret it to mean witnessing same-sex couples engage in affection or the like. A common related phrase is, “I don’t care what gays do in private, but do they have to throw it in my face?”

In the cognitive segregation model, case 1.5, the unofficial or masked gay person acceptable for military service, is expected to practice celibacy in accordance with DADT. Not only does cognitive segregation make his or her sexuality ambiguous with a default to heterosexual, but the segregation also works for his sexual morality. First, because he is not supposed to engage in homosexual conduct, and second, as a default heterosexual he is moral by default as well. DADT essentially makes gay service members appear sexually moral to those who wish to turn a blind eye or to know no better.

Whether it was intended or not, DADT essentially mirrors the doctrine of the largest Christian church in the United States, the Catholic Church. Catholicism maintains "homosexual acts are intrinsically disordered" but "the number of men and women who have deep-seated homosexual tendencies is not negligible."<sup>7</sup> The catechism, , a published document on Catholic doctrine, continues, "This inclination, which is objectively disordered, constitutes for most of them a trial," and

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<sup>7</sup> "Catechism of the Catholic Church: Chastity and Homosexuality (2357-2359)," Libreria Editrice Vaticana, [http://www.vatican.va/archive/ENG0015/\\_P85.HTM](http://www.vatican.va/archive/ENG0015/_P85.HTM).

“homosexual persons are called to chastity.”<sup>8</sup> The Catholic catechism recognizes the difference between a person with a sexual orientation and an immoral sexual act. Just like DADT, the homosexual acts are forbidden but the gay, lesbian, or bisexual person is acceptable with chastity.

Repealing DADT results in cognitive desegregation, unmasking the sexual ambiguity and perception defaults placed on unofficial gays. As a result, some people will need to self-assess their willingness to continue service or may need access to resources such as chaplains. Cognitive desegregation training will help to provide the direction and guidance necessary to make it through the transition.

### **Compatibility: Belief Differences between Individuals**

In 1948, then President, Harry S. Truman, signed executive order 9981, which established equality of treatment and opportunity for all persons in the armed services without regard to race, color, religion, or national origin.<sup>9</sup> This is the executive order famous for racially desegregating service members. While the policy could not make people get along, it set the tone for an environment allowing multiple religions and belief systems to coexist in the ranks.

It is possible to believe that homosexual conduct is immoral and at the same time is compatible with military service. Believing homosexual acts are immoral is a personal or religious based belief.<sup>10</sup> The military makes no judgments based upon morality and members of all faiths, creeds, religions, etc. to serve. Therefore, there is room for diversity of

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<sup>8</sup> "Catechism of the Catholic Church: Chastity and Homosexuality."

<sup>9</sup> Harry S. Truman, "Establishing the President's Committee on Equality of Treatment and Opportunity in the Armed Services (E.O. 9981)," (1948).

<sup>10</sup> Some may argue the military is held to a higher moral standard. The UCMJ is a collection of laws that, while likely influenced by religious beliefs, stand apart from religious moral judgment. Therefore, article 125 and DADT are laws, not moral codes.

beliefs about morality so long as they do not conflict with the greater mission of national security.

As an illustration, consider teetotalers, those who abstain from alcohol. Some teetotalers hold religious beliefs about consuming alcohol and believe it to be an immoral act. Many teetotalers join the military and serve alongside other members who drink alcohol. Generally, as long as the drinkers do not consume alcohol during working hours, teetotalers accept serving with drinkers. Teetotalers recognize that working with drinkers does not impose drinking upon them. In other words, proximity to people one believes are immoral does not change one's beliefs or make one begin to act immorally. One's personal integrity remains intact. Many people put their religious differences aside for the greater mission of the military.

### **Compatibility: Belief Difference between Individual and Institution**

While believing homosexual acts are immoral is compatible with military service, a similar and related belief is not. That specific belief is, "Homosexuality and military service are incompatible." *Homosexuality* in this instance has been left ambiguous to include sexual orientation, statements, and homosexual acts. If service members have adopted this into their personal belief systems, then their beliefs will conflict with the new policy of nondiscrimination.

The longstanding belief that homosexual conduct is incompatible with military service is sometimes misconstrued to mean that people with a non-heterosexual orientation are also incompatible with military service. Despite DADT making the distinction between sexual orientation and conduct, some service members may not acknowledge or believe in the separation of the two. Since DADT codified a blind-eye to people with an ambiguous sexuality, they could continue to serve with their personal integrity intact. Once repeal occurs and known gays are allowed to serve, they may feel their integrity is being broached.

Upon repeal of DADT, such service members will need to do some soul searching and decide which they believe more: homosexual acts are immoral but compatible with military service or homosexuality is incompatible with military service. If it is the later, then continuing service would infringe upon their personal integrity. Additionally, holding this belief would be considered incompatible with military service. Similar to conscientious objectors, people may request to leave service. Cognitive desegregation training could potentially help people struggling with these questions. Since retaining valuable skill sets and experience is of strategic importance, every effort should be made to empower service members to remain in service.

### **Implications for Training**

Since homosexuality is no longer considered a mental disorder and the state sodomy laws have either fallen or were rendered unenforceable, the remaining concern about gay, lesbian, and bisexual relations is individual belief about morality.

Throughout training and implementation, it is important to ensure homosexuals are not depicted as an immoral class of people. Discussions of morality, if they must occur, need to focus at the higher level of differences in beliefs among sexual orientations rather than polarizing assignments such as homosexuality is immoral while heterosexuality is moral. Heterosexuals can engage in immoral conduct as well, such as fornication or sodomy.

Beliefs and behaviors are recurring themes in this thesis. People hold beliefs and do not want to feel judged or threatened. Some people are offended by observed behaviors or receiving information that is counter to their belief systems. Cognitive desegregation may be challenging for some as they do not wish to be exposed to information and behaviors of gay, lesbian, and bisexuals. Training will need to be

focused on behaviors, not beliefs. Professional behavior will be expected of all service members regardless of sexual orientation.

Institutional policies can reinforce individual beliefs. When the institutional policies change, people may feel betrayed or that they no longer belong to the group. Service members must be assured somehow that they may retain their personal beliefs as long as they do not conflict with the mission.

One final note is that the military would prefer to not look like it is supporting a *gay lifestyle*, a phrase which connotes negative stereotypes of gays being immoral and engaging in high-risk sexual activity (see chapter three for a discussion of phrases). If the military deems it important enough to make a statement, training may need to include messages that as a federal institution, the military cannot pass judgments on differences in personal moral beliefs and that the military does not support any high risk sexual activity regardless of sexual orientation. Keeping the sodomy law in the UCMJ would be useful for this strategic message.

## Chapter 3

### **Implementation and Training**

*The eradication of this policy will require more than just eliminating one statute. It will require the implementation of anti-harassment policies and protocols for dealing with abusive or discriminatory behavior as we transition our armed forces away from a policy of discrimination. The military must be our active partners in developing those policies and protocols.*

President Barack Obama

There are many sources that address new policy adoption and implementation; however, in this chapter, I examine policy implementation only as it relates to conducting cognitive desegregation training.<sup>1</sup> This chapter represents operational level design, where strategic messages get translated into tactical level cognitive desegregation training (as detailed in chapter four).

Successful training hinges upon strong and supportive leadership. Training will be more effective if conducted from the top down to ensure senior leadership is empowered first. Training should occur immediately upon repeal of DADT and can eventually be included in annual or refresher diversity training programs. Finally, trainers, leadership, and resource personnel should be cognizant of all sides of the debate and be deliberate with their language during training.

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<sup>1</sup> Recommendations for further study regarding implementation of DADT repeal: Bernard D. Rostker and Scott A. Harris, "Sexual Orientation and U.S. Military Personnel Policy: Options and Assessment," (Santa Monica, CA: RAND, 1993). The former, frequently called "the RAND report," is considered definitive when discussing DADT. Parco and Levy, eds., *Attitudes Aren't Free. Attitudes Aren't Free* contain three chapters with implementation recommendations to include: Aaron Belkin et al., "How to End "Don't Ask, Don't Tell": A Roadmap of Political, Legal, Regulatory, and Organizational Steps to Equal Treatment," (Santa Barbara, CA: University of California, 2009). Herek, Jobe, and Carney, eds., *Out in Force: Sexual Orientation and the Military*. Nathaniel Frank et al., "Gays in Foreign Militaries 2010: A Global Primer," (Santa Barbara, CA: Palm Center, University of California, 2010). Lawrence J. Korb, Sean Duggan, and Laura Conley, "Implementing the Repeal Of "Don't Ask, Don't Tell" In the U.S. Armed Forces," (Washington D.C.: Center for American Progress (CAP), 2010). Charles L. Plummer, "Homosexual Conduct in the Military: Removing Emotion from the Debate" (Air University, 2009).

## **Military Structure and Culture**

There are a few aspects of the military's organizational structure and culture that strongly influence making changes to and implementing new policies. These include the overall mission of national security, leadership, and resistance to change.

### **National Security Mission is Paramount**

The Military Readiness Enhancement Act (MREA), if passed, carries with it the strategic message that sexual orientation has no bearing on national security and that nondiscrimination will enhance military readiness. Throughout policy implementation and related training, clear messages must be sent: the missions of national security and of military readiness take precedence.

### **Leadership is Key**

One of the best ways to affect change in the military is through strong and effective leadership. The military is a hierarchically structured rule-driven institution where the mission is clear and the chain of command wields authority. It can be relatively easy to get something done in the military because all it generally takes is the firm directive to implement it. As such, a leader or commander can make or break unit cohesion and effectiveness.

Repeal of DADT and replacement with MREA will therefore need strong leadership support.<sup>2</sup> It is most important to make sure members in leadership positions are dedicated to implementing a new policy. If a commander does not show whole hearted support for a policy, then his or her unit will reflect the attitude. Strong leadership will bring unit cohesion. Leaders cannot waiver and must not allude to feelings that

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<sup>2</sup> Belkin et al., "How to End "Don't Ask, Don't Tell"." Rostker and Harris, "Sexual Orientation and U.S. Military Personnel Policy," 377.

the policy was forced upon them by civilian leadership.<sup>3</sup> So far, repeal of DADT is off to a good start with top leadership support from the Commander in Chief, the Secretary of Defense, and the Chairman of the Joint Chiefs of Staff. Also, past leadership that had previously opposed repeal have changed their minds and now support MREA, including General (retired) Colin Powell and Dick Cheney, among others.

Senior military officers need to model the correct behavior with regards to military policy throughout the transition of cognitive desegregation. Admiral Mike Mullen, the Chairman of the Joint Chiefs of Staff, stated, “All of us in uniform are obligated to certainly follow the direction of leadership right up to the president. In the end, if there is policy direction that someone in uniform disagrees with... the answer is not advocacy; it is in fact to vote with your feet.”<sup>4</sup> In other words, if military officers disagree with the policy, they are not expected to feign advocacy. If they are unable to reconcile this and can no longer serve with good conscience, then the professional thing to do is resign. Without acceptance and buy-in from the professional officer ranks, implementation will be unnecessarily difficult, and will negatively detract from the core mission of the DOD. As stated in the previous chapter, training may help senior leadership to reconcile their beliefs before rushing to resign.

### **Military Innovation**

The military as an institution is generally characterized as being slow to innovate or change.<sup>5</sup> If the system is not failing, then there is resistance to change; when the institution is widely recognized as successful, change often appears premature. The US military is undoubtedly the most powerful in the world, and perhaps the most

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<sup>3</sup> Rostker and Harris, "Sexual Orientation and U.S. Military Personnel Policy," 377.

<sup>4</sup> Yochi J. Dreazen, "Military Makes It Tougher to Oust Gays," *Wall Street Journal* (2010).

<sup>5</sup> Carl H. Builder, *The Masks of War: American Military Styles in Strategy and Analysis*, ed. A RAND Corporation Research Study (Baltimore, MD: Johns Hopkins University Press, 1989).

effective in history. Change is thus seen as unnecessary, and to those vested in the status quo, even wasteful. The military as an institution is no different and this preference for stability and predictability poses an obstacle to implementing policy change. The military is implicitly averse to change and explicitly averse to change dictated from outside.<sup>6</sup>

The military also heralds itself as a culture with deep seated traditions and a warrior ethos.<sup>7</sup> As discussed in previous chapters, gender roles play a significant part in military culture. While military culture may be useful for maintaining the willingness to die for one's country, it can also breed like-mindedness in the form of groupthink.<sup>8</sup> There is widespread agreement, however, that in a world where the rate of change is increasing geometrically—and the only constant is change—even successful institutions must adapt and change ahead of the pack, or risk being left hopelessly behind. The message that change to prevent stagnation and decline is a necessary and positive component of the warrior tradition and ethos will be an important part of the transitional message.

The best way to manage these challenges is through strong leadership, as already discussed, and a cognitive desegregation training program. Training can oblige adherence to policy and empower the armed forces with the knowledge and resources necessary for a smooth transition.

### **Recommendations for Implementation**

In February 2010, Secretary of Defense Robert M. Gates created a Pentagon working group led by Mr. Jeh Johnson and General Carter Ham. The board has been charged with examining how best to implement a repeal of DADT. The report is due to Secretary Gates on

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<sup>6</sup> Rostker and Harris, "Sexual Orientation and U.S. Military Personnel Policy," 370.

<sup>7</sup> Gareth Morgan, *Images of Organization* (Thousand Oaks, CA: Sage Publications, Inc., 2006), 115-47.

<sup>8</sup> Irving L. Janis, *Groupthink: Psychological Studies of Policy Decisions and Fiascoes* (Boston, MA: Houghton Mifflin Co., 1982), 35.

December 1, 2010. While this board is likely to look at privacy related logistical concerns such as living quarters and showers, it is also seeking a broader implementation strategy. The following are recommendations for implementing this impending policy as it relates to a cognitive desegregation training program.

## **Standardization**

One of the lessons learned from racial desegregation is there must be a single strategic action plan.<sup>9</sup> After Truman desegregated the services in 1948, each service was allowed to implement the policy as it saw fit and as a result, "it took twenty-five years before all the services adopted the spirit of the directive."<sup>10</sup>

DADT has also not been uniformly trained and enforced.<sup>11</sup> Each of the services has its own interpretation of DADT, individual training programs, and regulations regarding who should be trained. For instance, the entire US Army receives annual DADT training while the US Air Force only requires one-time training for commanders, judge advocate generals (JAG), security forces, and the office of special investigations. As a result, there is no common understanding of the policy and many different ideas of how to implement it.<sup>12</sup>

Regarding society since DADT, former Vice President Dick Cheney says, "I think things have changed significantly since then. The society has moved on. It's partly a generational question."<sup>13</sup> It has been 17 years since DADT was mandated, allowing a generation to shift through and see society change its views. It will likely take at least another generation

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<sup>9</sup> Cashdollar, "Not Yes or No, but What If," 170.

<sup>10</sup> Korb, Duggan, and Conley, "Implementing the Repeal Of "Don't Ask, Don't Tell" In the U.S. Armed Forces," 297.

<sup>11</sup> Cashdollar, "Not Yes or No, but What If," 172.

<sup>12</sup> A personal anecdote: While attending school at Air University, I met several US Air Force officers who did not know that gays, lesbians, and bisexuals were authorized to serve at all. DADT permits homosexuals to serve, albeit silently with proscribed celibacy.

<sup>13</sup> Nichols, "The Nation: Dick Cheney, Gay Rights Advocate."

to normalize a new policy. The DOD should front load this policy change with core training standardized for all the services to get empowered from the start.

## **Levels of Training**

As the DOD prepares to implement a new policy, it should consider creating and conducting appropriate training at certain levels or to specific groups within the military. The order in which these groups are trained is important as well.

### **Senior Leadership**

Senior leadership should be trained first. In fact, they should be getting trained right now. While the Johnson-Ham working group is determining the best way to implement the new policy, senior leadership could be getting prepared. When the repeal is final and MREA enacted, the DOD could be organized and ready for a swift and smooth transition through knowledgeable and strongly supportive leadership.

Why should the senior officers be trained first? The military is shaped from both the top and the bottom.<sup>14</sup> Also, the attitudes about homosexuality in the military are generational.<sup>15</sup> According to polls and reports, younger male civilians are on the rise for believing same-sex relations to be morally acceptable.<sup>16</sup> Younger military members may be less resistant to a policy change and related training. The senior ranks at the top, however, are likely more culturally conservative and should receive the first round of new policy delegation and training.

Training for all leadership should be more intensive than en masse auditorium-style training. It should be face-to-face, in small groups of peers, and should give leadership the opportunity to examine their biases

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<sup>14</sup> Richard J. Bailey, "Integration in the Ranks: Explaining the Effects of Social Pressure and Attitudinal Change on U.S. Military Policy" (Dissertation, Georgetown University, 2006), 204.

<sup>15</sup> Bailey, "Integration in the Ranks", iv.

<sup>16</sup> Saad, "Americans' Acceptance of Gay Relations Crosses 50% Threshold."

and priorities. Again, training is not looking to change their beliefs, but to give them the first opportunity to work through whether or not they are on board with the change. Top-most leadership must receive training to ensure they are behind the policy, have time for self-reflection, and are empowered with information.

Perhaps senior leadership training can include exercises to have them understand their place in history. For instance, they could be asked to think deeply about what senior leaders were thinking in 1948 when Truman racially desegregated the military. This empathic exercise may help them understand the context better and help them decide to support the new policy.

Leadership training can create “fixers.”<sup>17</sup> Fixers are people who care about successful policy implementation. They have the skills to anticipate and identify implementation problems and to make adjustments to improve the process. Fixer training is practical, complimenting the strictly behavioral approach most likely to yield success.

To avoid a failure in leadership, the DOD must give senior officers everything they need to succeed first. Leadership must support the policy, be aware of the issues, and know how to direct questions. Training alone cannot make people get along. Therefore leadership is key for managing unit cohesion.

One final suggestion: if there is a well-respected high ranking officer who would be comfortable revealing his or her non-heterosexual identity, perhaps he or she (or better, they) could be the spokesperson for

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<sup>17</sup> Gail L. Zellman, "Implementing Policy Changes in Large Organizations: The Case of Gays and Lesbians in the Military," in *Out in Force: Sexual Orientation and the Military*, ed. Gregory M. Herek, Jared B. Jobe, and Ralph M. Carney, *Worlds of Desire: The Chicago Series on Sexuality, Gender, and Culture* (Chicago, IL: University of Chicago Press, 1996), 280.

the new policy.<sup>18</sup> He or she could make a video for training purposes to be viewed during initial training sessions upon policy implementation. Such a move would identify role models and could carry the strategic message that sexual orientation bears no influence on military service to country.

### **Remaining Leadership and Resources**

The next group to receive training, to the maximum extent possible, should be the remaining leadership and military professionals who will administer support during the cognitive desegregation transition. This includes the rest of the officer corps, senior non-commissioned officers, chaplains, JAG personnel, sexual assault responders, recruiters, equal opportunity, life skills and mental health professionals. Such a move would continue the empowerment down the chain, create more “fixers,” and prepare all resource services personnel.

### **En Masse and Accessions**

Finally, all other military members and accessions should receive the new policy training. At a minimum, they should receive core cognitive desegregation training, with possible added service specific content, as described in the next chapter.

### **Training Styles and Progression**

The US military uses different training styles to achieve different effects. The most effective for initial policy implementation will be a face-to-face training session with a qualified trainer to facilitate discussions. After initial training is complete, assessments will dictate whether to continue having face-to-face briefings or whether the military can move to computer based training. Eventually, the armed services can roll the content into annual diversity training. Finally, there may be a need for

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<sup>18</sup> Tammy S. Schultz, "The Sky Won't Fall: Policy Recommendations for Allowing Homosexuals to Serve Openly in the U.S. Military," in *Attitudes Aren't Free: Thinking Deeply About Diversity in the U.S. Armed Forces*, ed. James E. Parco and David A. Levy (Maxwell AFB, AL: Air University Press, 2010).

more specialized training similar in spirit and depth to the suicide training programs chaplains conduct.

### **Initial Training: Face-to-Face or Stand up Brief**

Once the new policy is adopted, the announcement of its official implementation will need to occur. Commanders will receive direction from above to announce it to their units. If possible, this announcement should be served and followed with cognitive desegregation training in the same session. This would place the unit commander in a good position to declare strong support for the new policy and empower the unit immediately before it has time to react adversely.<sup>19</sup> More detailed recommendations on core training content can be found in chapter four.

Training must carry clear, simple messages, be low-key, and be as short as possible.<sup>20</sup> The training should be directive and informative at first, but then allow for a question and answer session similar to sexual assault training. Commanders should have the local JAG, chaplain services, military equal opportunity, sexual assault responders, and life skills representatives on hand to show availability and support. This will present a unified front of knowledgeable professionals who support the new policy and can serve as solid resources.

### **Annual Diversity Training and Computer Based Training**

Cognitive desegregation training should not be computer based from the start as CBTs are generally ineffective at initially training social policies.<sup>21</sup> After initial face-to-face training is conducted, senior leadership should monitor the armed forces to determine if continual annual face-to-face training is necessary. If there are no problems, then the DOD could allow sexual orientation to be folded into annual diversity

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<sup>19</sup> Rostker and Harris, "Sexual Orientation and U.S. Military Personnel Policy." One good thing about the lengthy legislation process is that it is giving military members some time to think about the policy change. Media coverage and internal discussions are occurring, so if DADT is repealed, service members will likely not be shocked or stunned with fear of the unknown.

<sup>20</sup> Rostker and Harris, "Sexual Orientation and U.S. Military Personnel Policy."

<sup>21</sup> William Angerman, "An Exploration of Advanced Distributed Learning Service: Success Measures for Social Policy" (Air Command and Staff College, Air University, 2009).

training and eventually into computer based training. If issues are noted in the ranks, then senior leadership may look to more specialized training similar to the treatment they received.

### **Specialized Training**

Chaplains may elect to create a more in depth training program to aid service members with concerns about the new policy. Similar to suicide awareness training, it could include empathetic exercises, role playing, modeling behavior, and discussions about morality. Since it could be perceived as sensitivity training, this specialized training should be considered optional and above-and-beyond the core training recommended in the next chapter.

### **Be Deliberate with Language**

Words and ideas matter. Language can be strategic, and wielding it effectively is a strategy. While it is beyond this thesis to identify the sides of every issue, taking a quick look at some words and phrases may help trainers and leaders avoid some pitfalls. These words and phrases may draw the discussion into one about beliefs instead of keeping training focused on behavior (see the following sections for specifics).

Whoever designs and presents cognitive desegregation training should become knowledgeable of the various issues and controversies associated with sexuality and service. Specifically, they should seek to avoid certain words and phrases if they are not prepared to discuss them free of personal opinions or if they are not ready to facilitate potentially emotional discussions. All leadership should be versed in these topics as well, be able to answer them briefly and professionally, and not be afraid to redirect questions to people more knowledgeable, such as the military equal opportunity office, chaplains, life skills, sexual assault responders, or JAGs. Finally, all the resources professionals just listed should receive training containing these language highlights.

Presenters and leaders should be prepared to acknowledge this is a controversial topic and the words are carefully selected i.e. politically correct. Military members who are not afraid to voice their concerns may try to be critical of political correctness or putting spin on a topic. In the event of such a challenge, a presenter or commander could say controversial language is not useful towards achieving national security redirect the discussion to policy training.

These words and phrases are only for leadership, trainers, and resource professionals and do not imply attempting to change beliefs. These are objectively laid out for education, not endorsement. This is not recommended core training course content and these words and phrases are not here to suggest that all service members need to be trained to change their language.

### **Tolerance or Sensitivity Training**

Trainers and leadership should avoid using the word *tolerance* or referring to the training as *tolerance training* or *sensitivity training*. As mentioned throughout, beliefs are not the target of the cognitive desegregation training program; however, behaviors and empowering service members with knowledge and resources are. If the converse were true and training was focused on changing beliefs, then yes, it would be tolerance or sensitivity training. Bottom line: keep the training about behaviors, i.e. policy adherence.

### **Homosexual versus Gay, Lesbian, Bisexual**

There are some difficulties worth noting when using labels such as heterosexual, bisexual, and homosexual. First, these words can shape perception such that a person is not seen as a whole human, but is instead merely defined by his or her sexual orientation or practices. This difference can be understood by comparing the following: gay people versus people who happen to be gay. Service members are soldiers, sailors, marines, and airmen first who, because they are human, have a sexual orientation.

Second, these words are clinical and homosexual in particular has a history of being used to describe criminals and mental disorders.<sup>22</sup> The term *homosexual* can therefore have a dehumanizing affect. To the contrary, *gay*, *lesbian*, and *bisexual* keep a human element to the terms. Another useful term that seems to take neutral ground is *same-sex*.

A recent study conducted two polls, one asked respondents their opinion on allowing open homosexuals to serve in the military while the second asked about allowing gay men or lesbians to serve openly. Despite having the same underlying meaning, the results showed a greater number of people feel open gays and lesbians should be allowed to serve.<sup>23</sup> Therefore, it would be useful for presenters and leadership not to use the word homosexual exclusively, but to mix in or even lean more towards gay, lesbian, or bisexual in their language.

### **Causation**

Medical science and psychology agree sexual orientation is a part of the spectrum of human sexuality, so much a part that it is often compared to immutable traits such as left or right handedness. There are discussions about whether one is born with a sexual orientation or is it a part of human development. To date, however, there is no definitive scientific evidence to show what causes sexual orientation, whether heterosexual or otherwise. Trainers and leadership would do well to avoid discussions regarding causation of sexual orientation and watch for words and phrases such as *nature verses nurture*, *natural*, or *normal*.

As previously discussed, some feel a non-heterosexual orientation and/or acts are a choice and are immoral choices if made. Trainers and leadership should refrain from referring to sexual orientation or conduct as *immoral* or a *choice* and should not use *sexual preference* and *sexual lifestyle* as these both insinuate choice. If the topic comes up, trainers

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<sup>22</sup> Homosexuality was removed from the list of mental disorders in 1973. "DSM-IV."

<sup>23</sup> Dalia Sussman, "New Poll Shows Support for Repeal of 'Don't Ask, Don't Tell,'" *New York Times*, 11 Feb 2010.

and leadership could state such issues are irrelevant to national security.<sup>24</sup>

### **Tradition or Culture**

As touched upon in the last chapter, some feel strongly about traditions, such as gender role traditions or military traditions. Organizational cultures such as the military institution are laden with traditions. Culture and tradition imply an overlap of belief systems and methodologies. Traditions are often longstanding for good reason: they have proved to be useful.

Not everybody believes in keeping traditions for traditional sake only. Traditions are only good to keep if they continue to serve a purpose; otherwise they can slow change or progress. This sentiment is reflected in the Air Corps Tactical School motto: *Proficimus More Irretenti* (we progress unhindered by tradition).<sup>25</sup> Military tradition at the time was to keep the Air Corps within the Army; however, members of the Air Corps felt it could it had greater potential it could only realize if it was an independent service branch.

As with personal beliefs, if people feel their tradition or culture is threatened, they may be uncomfortable, resistant, and defensive. Leadership and trainers should avoid using the words tradition or traditional and avoid discussions of *cultural change*. Instead focus upon the new policy or redirect that military culture is defined by national security, not human sexuality.

### **Social Experiment**

There is no doubt the military is a specialized institution governed by rules and regulations specific to the armed services. Some believe the US government forces the military to take on policies that make it more like civil society, thus degrading its special status. This is called *social*

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<sup>24</sup> Prakash, "The Efficacy of "Don't Ask, Don't Tell"," 92.

<sup>25</sup> Tami Davis Biddle, *Rhetoric and Reality* (Princeton, NJ: Princeton University Press, 2002), 138.

*experimentation* and emerged in the 1940's when people opposed racial desegregation. This argument is dangerous as it implies lack of trust in the US government to make the best decisions on behalf of national security. Leaders and trainers should be wary of this phrase, consider instead enforcing the Constitutional subservience of the military to the US government, and when in doubt, return with confidence to this policy change is best for the DOD mission.

### **Fear, Homophobe, Bigot**

People generally respond better to the words *concerns* or *challenges* instead of *fear* or being *afraid*. The military instills messages about strength and courage, so to be afraid or in fear is considered a weakness or vulnerability. On the other hand, a challenge is surmountable. It is just an obstacle or a puzzle and has a sense of realistically getting through it. Trainers and leadership should look to incorporate concerns and challenges into their language if they have not already.

While *homophobia* should be addressed along with stereotypes in training, it may be best to avoid using the word in any other context. The words *homophobic* or *homophobe* have been used for name calling along with *bigot* or *bigotry*. They can be pejorative and inflammatory and redirection to mission and policy will be necessary to stamp out heated discussions.

### **Equal Rights**

Trainers and leadership should avoid language around *equal rights* and *minority status*. Some may wish to celebrate the repeal of DADT as achieving equal rights for gays, lesbians, and bisexuals. Not everybody supports the concept of equal rights for gays, because they are not considered one of the suspect classes under the Constitution.<sup>26</sup> The phrase *sexual minority* should be avoided as well since it implies minority

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<sup>26</sup> Liz Winfield, *Straight Talk About Gays in the Workplace: Creating an Inclusive, Productive Environment for Everyone in Your Organization*, 3rd ed. (New York, NY: Harrington Park Press, 2005), 51.

status. Finally, avoid terms such as *oppression* and *liberation* of gays, lesbians, and bisexuals.

### **Agenda and Acronyms**

Some people believe there is a *gay agenda* or a *homosexual agenda* where gay activists are seeking to change traditions and family values.<sup>27</sup> Some may say the military is falling prey to the gay agenda or supporting a homosexual lifestyle. Leadership and trainers should avoid using these phrases and keep focus on the mission and on behaviors, not beliefs, during training.

While common, the acronyms associated with gays, lesbians, and bisexuals can also evoke strong emotions in some. Rarely does one see LGB or GLB. It is more common to see GLBTI where the last two letters are for transgendered and intersex. Trainers and leadership should avoid these acronyms and stick with a mix of gay, lesbian, bisexual and homosexual as previously suggested.

### **Open Service or Serving Openly**

The previous chapter discussed how serving openly versus open homosexuality can be interpreted differently and could potentially evoke concerns about observable behavior. According to veterans who met with him, General Carter Ham prefers the phrases *serving honestly* and *serving truthfully* to serving openly.<sup>28</sup> *Known* or *acknowledged* can be useful alternative words. Perhaps it is better for leadership and trainers to avoid open or openly, dropping the words entirely and simply say gay, lesbian, and bisexual service members.

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<sup>27</sup> Glen E. Lavy, *Behind the Rhetoric: The Social Goals of GLBT Advocacy in Corporate America*, ed. William J. Taverner and Ryan W. McKee, 11th ed., *Taking Sides: Clashing Views in Human Sexuality* (New York, NY: McGraw Hill, 2010).

<sup>28</sup> Danny Ingram, "Aver's Participation in Veterans Lobby Day on Don't Ask, Don't Tell," (2010).

## **Summary**

This chapter entailed an introduction to some limitations and capabilities of military structure and culture which can influence implementing new policies. Taking those into consideration, some recommendations were presented such as DOD-wide directed standardized training, top down training, and training senior leaders first. The suggested progression and different styles of training were discussed, favoring initial face-to-face briefings upon repeal of DADT. Finally, the chapter finished off with a review of significant language and its implication in the debates about gays in the military.

## Chapter 4

### **Cognitive Desegregation Training**

*The question before us is not whether the military prepares to make this change, but how we best prepare for it.*

Robert M. Gates, Secretary of Defense  
Before Congress, February 2, 2010

This chapter represents the tactical level of doctrinal issues and provides recommendations for the actual training. Specifically, it identifies core training content and provides additional advice to presenters and leadership. Appendix F offers concrete examples of sample presentation slides.

#### **Training Content Recommendations**

What can cognitive desegregation training hope to accomplish? Cognitive desegregation training cannot train service members on how to get along. The purpose of this training is to provide direction on policy, professional conduct, and to empower members with information and resources. The rest will be up to service members to determine for themselves socially, while leadership carefully enforces unit cohesion.

#### **Core Training Content**

At a minimum, cognitive desegregation training should teach new policy content, professional behavior, and access to resources. It should be based in facts and contain a clear explanation of the new statute and ensuing DOD policies implementing it. The new statute and policies will lay out definitions and provide the overarching purpose for the change. Training should emphasize the national security mission over personal opinions and emphasize merit-based assessments over unrelated human identity elements. Finally, it must contain information about accessing resources such as chaplain services, judge advocate general (JAG),

sexual assault responders, life skills, health care providers, and the military equal opportunity office (MEO).

### **Leverage Leadership Up Front**

As addressed in the previous chapter, the effective implementation of a new policy greatly depends upon leadership. Senior leadership such as the Commander in Chief, the Secretary of Defense, and the Chairman of the Joint Chiefs of Staff should be quoted throughout training. Unit level commanders could add their name to the supportive chain of command to show vertical cohesion and connect the unit to the Commander in Chief (see appendix F).

### **Acknowledge and Affirm**

Trainers and leadership can affirm that the military will make it through a new policy change just as it has in the past. The US military survived racial desegregation and religious integration from 1948 onward, and it continues to create greater parity between men and women. For example, in February 2010, Secretary Gates lifted the longstanding ban of women serving on submarines.<sup>1</sup>

Some service members may express concern about how gays serving openly will *sexualize* the military. Trainers and commanders could remind them that gays have been serving in the military since its beginning. No matter how many policies are in place, the DOD could never guarantee the complete absence of homosexuals in the ranks. Human sexuality is complex and homosexuals and bisexuals are not visible. Also, allowing women to serve already openly sexualized the military and the US military remains the greatest in the world.

Perhaps the most compelling affirmation trainers and leadership can make would be to acknowledge the successes of foreign militaries.

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<sup>1</sup> Donna Miles, "Women to Serve on Subs, Gates Tells Congress," *American Forces Press Service* (2010), <http://www.defense.gov/news/newsarticle.aspx?id=58066>.

The United States' closest allies, Great Britain, Australia, and Canada, have repealed their bans on known gays and report no affect on unit cohesion, unit morale, or military effectiveness.<sup>2</sup> Each country acknowledges they had concerns about recruiting and retention, but after enactment, they each characterize the transition as a non-issue.

Also, if DADT is repealed, the United States would be more aligned with these allies in terms of democratic principles and human rights values. Repeal of DADT may therefore have the strategic effect of strengthening alliances, a goal President Obama stressed in the 2010 National Security Strategy.<sup>3</sup> Ultimately, service members will feel assured this transition is a non-issue from consistent and active support of their leaders, but additional affirmations from commanders and trainers can take it a step further.

### **Fact Based**

Cognitive desegregation training must contain nothing but facts. Similar to Psychological Operations and Public Affairs in the DOD, if the training is not based in facts, it will lose credibility and potentially generate resentment and distrust. Since the topic of gays in the military is controversial, the more training focuses upon facts, the more likely it will be to avoid potential conflicts and instead fulfill its purpose.<sup>4</sup>

### **Teaches the New Statute**

Cognitive desegregation training must reflect the guidance in the statute and policies replacing DADT. While it is uncertain at this time whether the Military Readiness Enhancement Act (MREA) will become law, it will be used to provide a basis for training recommendations.

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<sup>2</sup> Frank et al., "Gays in Foreign Militaries 2010."

<sup>3</sup> Barack Obama, *National Security Strategy 2010* (Washington DC: White House, 2010).

<sup>4</sup> Winfeld, ed., *Training Tough Topics*, xx.

## **Includes Purpose**

As already discussed, if passed, MREA would accomplish several things. Its purpose is to *enhance the readiness of the Armed Forces* by replacing DADT with a policy of nondiscrimination on the basis of sexual orientation. It repeals the DADT statute and adds language to the US code that the military may not discriminate on the basis of sexual orientation, against current military members, or against anyone seeking to join the armed forces. As discussed in chapter 2, repealing DADT has the strategic utility of enhancing military readiness with mission focus, return of personnel with specialized skills, and possibly boosting the number of service members.<sup>5</sup>

## **Everybody has a Sexual Orientation**

The statute applies to and protects *all* military members from discrimination. All too frequently, people equate the phrase “sexual orientation” with homosexuality or bisexuality. It is important to stress that every service member has a sexual orientation. A law protecting people from discrimination based upon sexual orientation is a law that protects everybody. For instance, if an openly heterosexual man is denied a promotion and his supervisor explains it was because he acted too straight around the office, he would be protected under the new statute. As incredulous as this example may sound, a heterosexual is not currently afforded legal protection for his or her sexuality in the military as are civilians in the DOD.<sup>6</sup> Also, the new law will protect the heterosexual in case 2.8 of the cognitive segregation model, the heterosexual assumed homosexual due to his or her gender expression not aligned with his or her assigned gender.

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<sup>5</sup> Winfeld, ed., *Training Tough Topics*, 496. Winfeld recommends teaching employees that diversity is a good business model when training about sexual orientation. The military’s business is national security and the military readiness to provide for national security.

<sup>6</sup> "DODD 1020.02 - Diversity Management and Equal Opportunity (EO) in the Department of Defense," ed. Department of Defense (2009).

## **Identified within Mission Statements**

The mission of the DOD is to provide the military forces needed to deter and make war and to protect the security of the country.<sup>7</sup> MREA's purpose clearly supports the DOD mission by seeking to return skilled personnel to service as well as allow gays to serve without fear of separation due to sexual orientation.

Cognitive desegregation training should have a core content presented uniformly across the DOD; however, each branch should add accents to reflect the new statute within their individual service cultures. This will create a strategic message to run as a thread throughout the training while allowing each service to distinguish itself along with embracing the strategic message.

## **Identified within Service Values**

The core cognitive desegregation training content can be based upon the umbrella core values of the DOD: duty, integrity, ethics, honor, courage, and loyalty.<sup>8</sup> Each service can then highlight overlap or wrap the core training content with their individual service values:<sup>9</sup>

- Air Force: Integrity first, service before self, and excellence in all we do
- Army: Loyalty, duty, respect, selfless service, honor, integrity, and personal courage
- Coast Guard: Honor, respect, and devotion to duty
- Navy and Marine Corps: Honor, courage, and commitment

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<sup>7</sup> "DOD 101: An Introductory Overview of the Department of Defense," Department of Defense, <http://www.defense.gov/pubs/dod101/dod101.html#values>.

<sup>8</sup> "DOD 101: An Introductory Overview of the Department of Defense."

<sup>9</sup> "Department of Defense Core Values: Issue Paper #6, Definition of Diversity," (Military Leadership Diversity Commission, 2009).

Analysis of the US Air Force Core Values can serve as an example of this recommendation. If passed, MREA changes conforming amendments in the US Code to include nondiscrimination based on sexual orientation alongside sex or gender-based categories (see appendix B and appendix C). The US Air Force may update its core values document to reflect this additional wording; however, the nondiscrimination spirit is already intact.

Within the value of *integrity first*, persons of integrity are those who can control their impulses and responsibly accept and carry out their duties.<sup>10</sup> US Air Force training could stress that nondiscrimination is every airman's duty and integrity compels them to act accordingly.

When gay, lesbian, and bisexual service members mask their sexuality to appear more heterosexual, they often say they feel they are forced to live a lie. Commenting on MREA, President Obama said, "This legislation will help make our armed forces even stronger and more inclusive by allowing gay and lesbian soldiers to serve honestly and with integrity."<sup>11</sup> Admiral Mike Mullen also observed, "I cannot escape being troubled by the fact that we have in place a policy which forces young men and women to lie about who they are in order to defend their fellow citizens. For me, it comes down to integrity -- theirs as individuals and ours as an institution."<sup>12</sup> According to these leaders, open service, regardless of sexual orientation, *is* integrity first.

*Service before self* says that professional duties take precedence over personal desires. If an airman chooses to discriminate against another based upon his or her personal beliefs, it places self-interest before service to national security. In other words, nondiscrimination *is* service before self.

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<sup>10</sup> "AFD-090212-058 - United States Air Force Core Values," (Department of the Air Force, 1997).

<sup>11</sup> David M. Herszenhorn and Carl Hulse, "House Votes to Allow 'Don't Ask, Don't Tell' Repeal," *NY Times* (2010), <http://www.nytimes.com/2010/05/28/us/politics/28tell.html>.

<sup>12</sup> Mullen, "Mullen's Blog: My View on 'Don't Ask Don't Tell'."

In the US Air Force Core Values' description of *excellence in all we do*, an airman is expected to have community excellence characterized by mutual respect. According to the USAF Core Values description of mutual respect, "Genuine respect involves viewing another person as an individual of fundamental worth. Obviously, this means that a person is never judged on the basis of his/her possession of an attribute that places him or her in some racial, ethnic, economic, or gender-based category."<sup>13</sup> Since part of the stigma surrounding homosexuals is that they are failing to adhere to gender roles, sexual orientation can be considered within a gender-based category. Therefore, nondiscrimination *is* excellence in all we do.

### **Behavior, not Beliefs**

Cognitive desegregation training is about providing direction to military members about the new statute and DOD policies. It is not about trying to change anyone's personal views on different sexual orientations. It focuses upon behaviors, not beliefs.<sup>14</sup>

Military members are frequently opposed to sensitivity training.<sup>15</sup> Sensitivity training would be the reverse change model, a program that seeks to change or influence beliefs first in order to change behaviors. If service members feel their personal beliefs are being targeted, they will be resistant to receiving new information. Trainees must be assured they are welcome to retain their personal beliefs as long as they do not directly conflict with the new statute or policies.

### **Focus on Skills and Merit**

Training will stress that a service member's job performance and dedication to the mission are all that matters, not unrelated attributes such as race, religion, gender, or sexual orientation. People are defined

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<sup>13</sup> "AFD-090212-058 - United States Air Force Core Values."

<sup>14</sup> Winfield, ed., *Training Tough Topics*, xix.

<sup>15</sup> Herek, Jobe, and Carney, eds., *Out in Force: Sexual Orientation and the Military*.

by more than just a single attribute about themselves, so it is important to not reduce them to such a simple view. The behavior to emulate is not to pass judgment based upon sexual orientation, but upon merit.

### **Stress Professional Social Conduct**

Perhaps the DOD should develop and issue an American version of the British Armed Forces Code of Social Conduct to accompany repealing DADT (see appendix D). A Code of Social Conduct would allay service members concerns about being exposed to worrisome behaviors. If DOD does implement such a Code of Social Conduct, it will need to be included in the training.

Whether or not an official Code of Social Conduct is issued, training must stress *professional* social conduct. Service members will be reminded that when they don the uniform, they are expected to leave signs of subcultures behind and turn their focus to the mission. All service members are expected to conduct themselves professionally, use their best judgment in social situations, and avoid words and actions which may be offensive to others.

Finally, there can be no double standards for post-DADT repeal reactions. Advocates of repeal cannot celebrate and opponents cannot protest in the workplace. Training will advise both groups on the resources for helping them with their emotions.

### **Sexual Orientation is not a Private Issue**

Sexual conduct is private, regardless of sexual orientation, but sexual identity or orientation does not have to be.<sup>16</sup> Past views stressing that sexual orientation is a private matter sends the message that it is expected to be kept quiet. Under a new statute, being open about one's non-heterosexual orientation is no longer a cause for dismissal. While it may be common sense, service members are expected to use their best judgment when deciding to whom they reveal such private information.

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<sup>16</sup> Frank et al., "Gays in Foreign Militaries 2010."

The stress should instead be upon refraining from unprofessional public behaviors. It is unprofessional and illegal to engage in public sexual activities or excessive public displays of affection, regardless of sexual orientation. Also, verbally flaunting sexual exploits is unprofessional, regardless of sexual orientation.

### **Violence and Harassment**

The DOD maintains a policy of unlawful discrimination based upon race, color, religion, sex, or national origin.<sup>17</sup> If DADT is repealed and replaced with MREA, then sexual orientation will be added to this list. There will be concern for gay-bashing within the military. Commanders and MEO should make it clear that there is no tolerance for such violence or harassment, regardless of sexual orientation, and that punishment will be swift and severe for such unprofessional conduct.

### **Language Restrictions**

It is likely that the DOD will issue a new policy regarding harassment in light of the new statute. Members will need to be instructed that calling others derogatory names such as fairy, homo, fag, dyke, etc. is unprofessional, constitutes harassment, and will receive disciplinary action.

### **Reporting**

Training must direct service members on the proper reporting channels, which is usually up the chain of command to the unit commander. Service members need to feel they have the recourse and trust that the commander will take responsibility for handling policy infringements and unprofessional conduct.

### **Address Stereotypes**

MREA notes that discrimination can occur when sexual orientation is either real or perceived. In an effort to dissuade potential violence, i.e.

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<sup>17</sup> "DODD 1020.02 - Diversity Management and Equal Opportunity (EO) in the Department of Defense."

gay-bashing, it is important to address perception and misperception with regard to human sexuality. In order to reduce harassment or violence based on stereotypes of homosexuals, some concepts of gender and sexuality should be addressed.

### **Separate Sexual Orientation and Gender Roles**

Human sexuality is not a visible attribute, but some stereotype gender expression as a reflection of their sexuality. Human sexuality is more complex than the commonly believed basic dichotomies of male/female, man/woman, and heterosexual/homosexual. Medical and social sciences recognize four main categories of sexual orientation: heterosexual, homosexual, bisexual, and asexual. Social studies also identify gender expression as varying from masculine, through androgynous, to feminine.

As discussed in chapter one, training should reinforce the notion that gender expression and sexual orientation are separate concepts and have no correlation to each other. This particular portion of the recommended training could meet with cognitive dissonance and therefore some resistance. Since it is addressing perception-based beliefs and biases, it could be crossing the line into sensitivity training as well. Trainers can remind students this is about common misperceptions and negative stereotypes that sometimes drive behavior. There is no requirement to ascribe to it.

### **Education does not mean Endorsement**

Cognitive desegregation training is not an endorsement of high risk activities. Training about a new policy on nondiscrimination does not mean the military is endorsing any particular stereotyped lifestyle or high risk activities. If the word *endorsing* must be used, then the military is endorsing all sexual orientations as aspects of human sexuality, not just one of them.

### **Allay Concerns and Include Resources**

Perhaps the most charged discussions around mixed open sexual orientations are proximity related concerns such as sexual harassment, sexual assault, privacy issues, and the possibility of violence. Training can help allay concerns in these areas by directing members to the related resources. Some of these have already been addressed in the training layout thus far. It is beyond the scope of this thesis to analyze logistical concerns such as shared facilities, but once the working group completes its study, decisions regarding such matters can be included in training.

The DOD already has all the services and resources in place to support cognitive desegregation. Training should include all the access information necessary for service members to get the care and support they need. The following services are offered as a starting list: the commander, the first shirt, the local chaplain, JAG, MEO, life skills, health clinic, and sexual assault responder.

### **Summary**

This chapter contained a collection of recommendations for core cognitive desegregation training content. The overarching message is that training should teach the new policy, stress professional behavior, and provide clear access to resources. To aid in stressing professional behavior, stereotypes concerning sexuality and gender should be briefly addressed in order to deter potential violence and harassment. Such a training program will allay concerns and empower members of the armed forces with the knowledge necessary for an effective policy transition.

## **Conclusion**

*My personal belief is that allowing homosexuals to serve openly would be the right thing to do. I cannot escape being troubled by the fact that we have in place a policy which forces young men and women to lie about who they are in order to defend their fellow citizens. For me, it comes down to integrity -- theirs as individuals and ours as an institution.*

Admiral Mike Mullen  
Chairman of the Joint Chiefs of Staff

On 2 March 2010, Secretary of Defense Robert Gates issued a letter to the Pentagon's General Counsel, Mr. Jeh Johnson, and the Commander, US Army Europe, General Carter F. Ham. This memorandum acknowledged that President Barack Obama had directed the Department of Defense to consider how best to implement a repeal of DADT and provide a new statutory mandate. According to Secretary Gates, "To be successful, we must understand all issues and potential impacts associated with repeal of the law and how to manage implementation in a way that minimizes disruption." Secretary Gates also noted that, "strong, engaged, and informed leadership will be required at every level to properly and effectively implement a legislative change."<sup>18</sup>

Attached to Secretary Gates' memorandum was a "terms of reference" where he established the objectives of the comprehensive review.<sup>19</sup> Included in the objectives and scope was the directive, "Determine leadership, guidance, and training on standards of conduct

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<sup>18</sup> Robert M. Gates, "Comprehensive Review on the Implementation of a Repeal of 10 U.S.C. Section 654," (Washington DC: Secretary of Defense, 2010).

<sup>19</sup> Gates, "Comprehensive Review on the Implementation of a Repeal of 10 U.S.C. Section 654."

and new polices.”<sup>20</sup> This thesis represents an attempt to address the Secretary’s guidance directly.

In this thesis, I analyzed DADT and modeled how it politically constructs and excludes a group of people as officially gay. Conversely, DADT constructs and includes a group of unofficial gays who effectively mask their non-heterosexual sexuality by refraining from statements, acts, and marriage. I call this the cognitive segregation model, where heterosexual service members are physically separated from official or known gays and cognitively separated from unofficial, unknown, or masked gays, lesbians, and bisexuals. Masked gays, lesbians, and bisexuals are deemed eligible for military service since they do not act like homosexuals.

Since homosexuality is no longer considered a mental illness and state sodomy laws have been either repealed or rendered unenforceable by Supreme Court rulings, most opponents to gays in the military concentrate on the morality of homosexual acts. The cognitive segregation constructed by DADT also made the masked gay person appear morally acceptable as he or she is required to practice celibacy.

Repealing DADT and enacting the Military Readiness Enhancement Act (MREA) will allow gay persons currently serving to unmask their sexuality (if they so choose) and result in a cognitive desegregation. MREA will also allow official, open, or known gays previously separated to return as well as allow new recruits to enter.

Military members who believe homosexual acts are immoral may be uncomfortable working with open gays, lesbians, and bisexuals. Those concerned will need to examine their personal philosophies and decide: if it is just a matter of differences in beliefs that can be set aside in the name of service to country, or, if it directly conflicts with a personal belief that “homosexuals and/or homosexuality is incompatible

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<sup>20</sup> Gates, “Comprehensive Review on the Implementation of a Repeal of 10 U.S.C. Section 654.”

with military service" and thus requires a request for separation. A proper training program could help those concerned avoid this decision and remain in the ranks as the military cognitively desegregates.

A cognitive desegregation training program will need to be focused on training behaviors to be compliant with a new nondiscriminatory policy while affirming that service members are allowed to retain their personal beliefs. Implementation of training should be standardized across the DOD with core content. The individual services can add context for service specific concerns, but they cannot take away from the core DOD messages.

Since attitudes towards homosexuals are generational, training should occur from the top down. Senior leadership should receive training first, affording them the opportunity for self reflection and empowering them to firmly support the new policy. Leadership at all levels, trainers, and resource personnel should be versed in the issues, be deliberate and selective with their language, and be able to return discussions to the greater mission of national security.

Cognitive desegregation training will teach the new policy, address stereotypes and perceptions by separating sexuality and gender, and direct service members to resources such as chaplain services, judge advocate general, military equal opportunity, and health services. Training will remind service members that the US military already has everything it needs to care for its members during any policy transition.

For those concerned about witnessing observable activities which may imply a person is gay, lesbian, or bisexual, training can remind them that professional social behavior is expected of the members of the armed services regardless of sexual orientation. This includes being cognizant of offensive language or present excessive displays of affection and avoiding both. Training will also assure them there is recourse in the chain of command for unprofessional behavior and new policy infringements. Upon repeal of DADT, cognitive segregation will no longer

be mandated and service members will need to trust that only people capable of professional conduct will want to join and proceed through the accession process.

In February 2010, Admiral Mike Mullen, the highest ranking military officer, stated before the Senate that “allowing homosexuals to serve openly would be the right thing to do.” Not only is it the right thing to do, but repealing DADT has the strategic utility of enhancing military readiness through boosting personnel and returning critical skills. Military training focused on policy, behavior, and resources and conducted from the top down is the most effective way to implement the new law, empower service members, and ensure a smooth transition to a policy of nondiscrimination based on sexual orientation.

## **Appendix A**

### **TITLE 10 - ARMED FORCES**

#### **Subtitle A - General Military Law**

##### **PART II - PERSONNEL**

###### **CHAPTER 37 - GENERAL SERVICE REQUIREMENTS**

###### **§ 654. Policy concerning homosexuality in the armed forces**

**(a) Findings.**— Congress makes the following findings:

**(1)** Section 8 of article I of the Constitution of the United States commits exclusively to the Congress the powers to raise and support armies, provide and maintain a Navy, and make rules for the government and regulation of the land and naval forces.

**(2)** There is no constitutional right to serve in the armed forces.

**(3)** Pursuant to the powers conferred by section 8 of article I of the Constitution of the United States, it lies within the discretion of the Congress to establish qualifications for and conditions of service in the armed forces.

**(4)** The primary purpose of the armed forces is to prepare for and to prevail in combat should the need arise.

**(5)** The conduct of military operations requires members of the armed forces to make extraordinary sacrifices, including the ultimate sacrifice, in order to provide for the common defense.

**(6)** Success in combat requires military units that are characterized by high morale, good order and discipline, and unit cohesion.

**(7)** One of the most critical elements in combat capability is unit cohesion, that is, the bonds of trust among individual service members that make the combat effectiveness of a military unit greater than the sum of the combat effectiveness of the individual unit members.

**(8)** Military life is fundamentally different from civilian life in that—

**(A)** the extraordinary responsibilities of the armed forces, the unique conditions of military service, and the critical role of unit cohesion, require that the military community, while subject to civilian control, exist as a specialized society; and

**(B)** the military society is characterized by its own laws, rules, customs, and traditions, including numerous restrictions on personal behavior, that would not be acceptable in civilian society.

**(9)** The standards of conduct for members of the armed forces regulate a member's life for 24 hours each day beginning at the moment the member enters military status and not ending until that person is discharged or otherwise separated from the armed forces.

**(10)** Those standards of conduct, including the Uniform Code of Military Justice, apply to a member of the armed forces at all times that the member has a military status, whether the member is on base or off base, and whether the member is on duty or off duty.

**(11)** The pervasive application of the standards of conduct is necessary because members of the armed forces must be ready at all times for worldwide deployment to a combat environment.

**(12)** The worldwide deployment of United States military forces, the international responsibilities of the United States, and the potential for involvement of the armed forces in actual combat routinely make it necessary for members of the armed forces involuntarily to accept living conditions and working conditions that are often spartan, primitive, and characterized by forced intimacy with little or no privacy.

**(13)** The prohibition against homosexual conduct is a longstanding element of military law that continues to be necessary in the unique circumstances of military service.

**(14)** The armed forces must maintain personnel policies that exclude persons whose presence in the armed forces would create an unacceptable risk to the armed forces' high standards of morale, good order and discipline, and unit cohesion that are the essence of military capability.

**(15)** The presence in the armed forces of persons who demonstrate a propensity or intent to engage in homosexual acts would create an unacceptable risk to the high standards of morale, good order

and discipline, and unit cohesion that are the essence of military capability.

**(b) Policy.**— A member of the armed forces shall be separated from the armed forces under regulations prescribed by the Secretary of Defense if one or more of the following findings is made and approved in accordance with procedures set forth in such regulations:

**(1)** That the member has engaged in, attempted to engage in, or solicited another to engage in a homosexual act or acts unless there are further findings, made and approved in accordance with procedures set forth in such regulations, that the member has demonstrated that—

**(A)** such conduct is a departure from the member's usual and customary behavior;

**(B)** such conduct, under all the circumstances, is unlikely to recur;

**(C)** such conduct was not accomplished by use of force, coercion, or intimidation;

**(D)** under the particular circumstances of the case, the member's continued presence in the armed forces is consistent with the interests of the armed forces in proper discipline, good order, and morale; and

**(E)** the member does not have a propensity or intent to engage in homosexual acts.

**(2)** That the member has stated that he or she is a homosexual or bisexual, or words to that effect, unless there is a further finding, made and approved in accordance with procedures set forth in the regulations, that the member has demonstrated that he or she is not a person who engages in, attempts to engage in, has a propensity to engage in, or intends to engage in homosexual acts.

**(3)** That the member has married or attempted to marry a person known to be of the same biological sex.

**(c) Entry Standards and Documents.**—

**(1)** The Secretary of Defense shall ensure that the standards for enlistment and appointment of members of the armed forces reflect the policies set forth in subsection (b).

**(2)** The documents used to effectuate the enlistment or appointment of a person as a member of the armed forces shall set forth the provisions of subsection (b).

**(d) Required Briefings.**— The briefings that members of the armed forces receive upon entry into the armed forces and periodically thereafter under section 937 of this title (article 137 of the Uniform Code of Military Justice) shall include a detailed explanation of the applicable laws and regulations governing sexual conduct by members of the armed forces, including the policies prescribed under subsection (b).

**(e) Rule of Construction.**— Nothing in subsection (b) shall be construed to require that a member of the armed forces be processed for separation from the armed forces when a determination is made in accordance with regulations prescribed by the Secretary of Defense that—

**(1)** the member engaged in conduct or made statements for the purpose of avoiding or terminating military service; and

**(2)** separation of the member would not be in the best interest of the armed forces.

**(f) Definitions.**— In this section:

**(1)** The term “homosexual” means a person, regardless of sex, who engages in, attempts to engage in, has a propensity to engage in, or intends to engage in homosexual acts, and includes the terms “gay” and “lesbian”.

**(2)** The term “bisexual” means a person who engages in, attempts to engage in, has a propensity to engage in, or intends to engage in homosexual and heterosexual acts.

**(3)** The term “homosexual act” means—

**(A)** any bodily contact, actively undertaken or passively permitted, between members of the same sex for the purpose of satisfying sexual desires; and

**(B)** any bodily contact which a reasonable person would understand to demonstrate a propensity or intent to engage in an act described in subparagraph (A).

(Added Pub. L. 103-160, div. A, title V, § 571(a)(1), Nov. 30, 1993, 107 Stat. 1670.)

### **References in Text**

The Uniform Code of Military Justice, referred to in subsec. (a)(10), is classified to chapter 47 (§ 801 et seq.) of this title.

### **Implementation of Section; Regulations; Savings Provision; Sense of Congress**

Section 571 (b)-(d) of Pub. L. 103-160 provided that:

“(b) Regulations.—Not later than 90 days after the date of enactment of this Act [Nov. 30, 1993], the Secretary of Defense shall revise Department of Defense regulations, and issue such new regulations as may be necessary, to implement section 654 of title 10, United States Code, as added by subsection (a).

“(c) Savings Provision.—Nothing in this section or section 654 of title 10, United States Code, as added by subsection (a), may be construed to invalidate any inquiry, investigation, administrative action or proceeding, court-martial, or judicial proceeding conducted before the effective date of regulations issued by the Secretary of Defense to implement such section 654.

“(d) Sense of Congress.—It is the sense of Congress that—

“(1) the suspension of questioning concerning homosexuality as part of the processing of individuals for accession into the Armed Forces under the interim policy of January 29, 1993, should be continued, but the Secretary of Defense may reinstate that questioning with such questions or such revised questions as he considers appropriate if the Secretary determines that it is necessary to do so in order to effectuate the policy set forth in section 654 of title 10, United States Code, as added by subsection (a); and

“(2) the Secretary of Defense should consider issuing guidance governing the circumstances under which members of the Armed Forces questioned about homosexuality for administrative purposes should be afforded warnings similar to the warnings under section 831 (b) of title 10, United States Code (article 31(b) of the Uniform Code of Military Justice).”

This unofficial compilation of the U.S. Code is current as of Jan. 5, 2009 (see <http://www.law.cornell.edu/uscode/uscprint.html>).

## **Appendix B**

111th CONGRESS

2d Session

### **S. 3065**

To amend title 10, United States Code, to enhance the readiness of the Armed Forces by replacing the current policy concerning homosexuality in the Armed Forces, referred to as 'Don't Ask, Don't Tell', with a policy of nondiscrimination on the basis of sexual orientation.

**IN THE SENATE OF THE UNITED STATES**  
**March 3, 2010**

Mr. LIEBERMAN (for himself, Mr. LEVIN, Mr. UDALL of Colorado, Mrs. GILLIBRAND, Mr. BURRIS, Mr. BINGAMAN, Mrs. BOXER, Mr. WYDEN, Mr. LEAHY, Mr. SPECTER, Mr. MERKLEY, Mrs. FEINSTEIN, Mr. FRANKEN, and Mr. CARDIN) introduced the following bill; which was read twice and referred to the Committee on Armed Services

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### **A BILL**

To amend title 10, United States Code, to enhance the readiness of the Armed Forces by replacing the current policy concerning homosexuality in the Armed Forces, referred to as 'Don't Ask, Don't Tell', with a policy of nondiscrimination on the basis of sexual orientation.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### **SECTION 1. SHORT TITLE.**

This Act may be cited as the 'Military Readiness Enhancement Act of 2010'.

#### **SEC. 2. PURPOSE.**

The purpose of this Act is to institute in the Armed Forces a policy of nondiscrimination based on sexual orientation.

**SEC. 3. REPEAL OF 1993 POLICY CONCERNING HOMOSEXUALITY IN THE ARMED FORCES.**

The following provisions of law are repealed:

- (1) Section 654 of title 10, United States Code.
- (2) Subsections (b), (c), and (d) of section 571 of the National Defense Authorization Act for Fiscal Year 1994 (10 U.S.C. 654 note).

**SEC. 4. ESTABLISHMENT OF POLICY OF NONDISCRIMINATION BASED ON SEXUAL ORIENTATION IN THE ARMED FORCES.**

(a) Establishment of Policy-

- (1) IN GENERAL- Chapter 37 of title 10, United States Code, is amended by adding at the end the following new section:

***Sec. 656. Policy of nondiscrimination based on sexual orientation in the armed forces***

^(a) Policy- The Secretary of Defense, and the Secretary of Homeland Security with respect to the Coast Guard when it is not operating as a service in the Navy, may not discriminate on the basis of sexual orientation against any member of the armed forces or against any person seeking to become a member of the armed forces.

^(b) Discrimination on Basis of Sexual Orientation- For purposes of this section, discrimination on the basis of sexual orientation is--

^(1) in the case of a member of the armed forces, the taking of any personnel or administrative action (including any action relating to promotion, demotion, evaluation, selection for an award, selection for a duty assignment, transfer, or separation) in whole or in part on the basis of sexual orientation; and

^(2) in the case of a person seeking to become a member of the armed forces, denial of accession into the armed forces in whole or in part on the basis of sexual orientation.

^(c) Personnel and Administrative Policies and Action- The Secretary of Defense, and the Secretary of Homeland Security with

respect to the Coast Guard when it is not operating as a service in the Navy, may not establish, implement, or apply any personnel or administrative policy, or take any personnel or administrative action (including any policy or action relating to promotions, demotions, evaluations, selections for awards, selections for duty assignments, transfers, or separations) in whole or in part on the basis of sexual orientation.

^(d) Rules and Policies Regarding Conduct- Nothing in this section prohibits the Secretary of Defense, and the Secretary of Homeland Security with respect to the Coast Guard when it is not operating as a service in the Navy, from prescribing or enforcing regulations governing the conduct of members of the armed forces if the regulations are designed and applied without regard to sexual orientation.

^(e) Re-Accession of Otherwise Qualified Persons Permitted- Any person separated from the armed forces on the basis of sexual orientation in accordance with laws and regulations in effect before the date of the enactment of this section, if otherwise qualified for re-accession into the armed forces, shall not be prohibited from re-accession into the armed forces on the sole basis of such separation.

^(f) Sexual Orientation- In this section, the term 'sexual orientation' means heterosexuality, homosexuality, or bisexuality, whether the orientation is real or perceived, and includes statements and consensual sexual conduct that is not otherwise illegal manifesting heterosexuality, homosexuality, or bisexuality.'

(2) CLERICAL AMENDMENTS- The table of sections at the beginning of chapter 37 of such title is amended--

(A) by striking the item relating to section 654; and

(B) by adding at the end the following new item:  
`656. Policy of nondiscrimination based on sexual orientation in the armed forces.'

(b) Conforming Amendments- Title 10, United States Code, is amended as follows:

(1) Section 481 is amended--

- (A) In subsection (a)(2), by inserting `, including sexual orientation discrimination,' after `discrimination' in subparagraphs (C) and (D); and
- (B) in subsection (c), by inserting `and sexual orientation-based' after `gender-based' both places it appears.

(2) Section 983(a)(1) is amended by striking `(in accordance with section 654 of this title and other applicable Federal laws)'.

(3) Section 1034(i)(3) is amended by inserting `sexual orientation,' after `sex,'.

## **SEC. 5. BENEFITS.**

Nothing in this Act, or the amendments made by this Act, shall be construed to require the furnishing of dependent benefits in violation of section 7 of title 1, United States Code (relating to the definitions of `marriage' and `spouse' and referred to as the `Defense of Marriage Act').

## **SEC. 6. NO PRIVATE CAUSE OF ACTION FOR DAMAGES.**

Nothing in this Act, or the amendments made by this Act, shall be construed to create a private cause of action for damages.

## **SEC. 7. REVIEW AND IMPLEMENTATION.**

### **(a) Pentagon Working Group-**

(1) ESTABLISHMENT- The Secretary of Defense shall establish in the Department of Defense a working group (to be known as the `Pentagon Working Group') to make recommendations to the Secretary regarding the implementation of this Act and the amendments made by this Act.

(2) TREATMENT OF EXISTING WORKING GROUP- If there exists in the Department as of the date of the enactment of this Act a working group on recommendations regarding the repeal of section 654 of title 10, United States Code, the Secretary may treat the working group as the working group required by paragraph (1) for purposes of this section.

(b) Working Group Recommendations-

- (1) SUBMITTAL TO SECRETARY OF DEFENSE- Not later than 270 days after the date of the enactment of this Act, the working group under subsection (a) shall submit to the Secretary of Defense a written report setting forth such recommendations as the working group considers appropriate for a revision of Department of Defense regulations, or the issuance of new regulations, to implement this Act and the amendments made by this Act.
- (2) SUBMITTAL TO CONGRESS- The report under paragraph (1) shall also be submitted to the Committees on Armed Services of the Senate and the House of Representatives.

(c) Regulations-

- (1) REVISIONS REQUIRED- Not later than 60 days after receipt of the report required by subsection (b)(1), the Secretary of Defense shall revise Department of Defense regulations, and shall issue such new regulations as may be necessary, to implement this Act and the amendments made by this Act. The Secretary of Defense shall further direct the Secretary of each military department to revise regulations of that military department in accordance with this Act, not later than 120 days after the Secretary of Defense receives the report required by subsection (b)(1).

- (2) ELEMENTS- The revisions required by paragraph (1) shall include the following:

- (A) Revision of all equal opportunity and human relations regulations, directives, and instructions to add sexual orientation nondiscrimination to the Department of Defense Equal Opportunity policy and to related human relations training programs.
- (B) Revision of Department of Defense and military department personnel regulations to eliminate procedures for involuntary discharges based on sexual orientation.
- (C) Revision of Department of Defense and military department regulations governing victims' advocacy programs to include sexual orientation discrimination among the forms of discrimination for which members

of the Armed Forces and their families may seek assistance.

(D) Revision of any Department of Defense and military department regulations as necessary to ensure that regulations governing the personal conduct of members of the Armed Forces are written and enforced without regard to sexual orientation.

(d) Sexual Orientation Defined- In this section, the term 'sexual orientation' has the meaning given that term in section 656(f) of title 10, United States Code, as added by section 4(a).

## **SEC. 8. REPORT.**

Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report setting forth an assessment of the compliance of institutions of higher education with section 983 of title 10, United States Code (as amended by section 4(b)), and describing the actions, if any, taken by the Secretary to effect the denial of funds authorized in that section to an institution of higher education that continues to prohibit, or in effect prevent, the Secretary or a military department from maintaining, establishing, or operating a unit of the Senior Reserve Officers' Training Corps at that institution (or any subelement of that institution).

## **APPENDIX C**

### **111th CONGRESS**

#### **1st Session**

#### **H. R. 1283**

To amend title 10, United States Code, to enhance the readiness of the Armed Forces by replacing the current policy concerning homosexuality in the Armed Forces, referred to as 'Don't Ask, Don't Tell', with a policy of nondiscrimination on the basis of sexual orientation.

### **IN THE HOUSE OF REPRESENTATIVES**

**March 3, 2009**

Mrs. TAUSCHER (for herself, Mr. ABERCROMBIE, Mr. ACKERMAN, Mr. ANDREWS, Ms. BALDWIN, Ms. BERKLEY, Mr. BERMAN, Mr. BISHOP of New York, Mr. BLUMENAUER, Mr. BRADY of Pennsylvania, Mrs. CAPPS, Mr. CAPUANO, Mr. CARSON of Indiana, Ms. CASTOR of Florida, Mrs. CHRISTENSEN, Ms. CLARKE, Mr. CLAY, Mr. CLEAVER, Mr. COHEN, Mr. CONYERS, Mr. COURTNEY, Mr. CROWLEY, Mr. CUMMINGS, Mrs. DAVIS of California, Mr. DEFAZIO, Mr. DELAHUNT, Ms. DELAURO, Mr. DINGELL, Mr. DOYLE, Ms. EDWARDS of Maryland, Mr. ELLISON, Mr. ENGEL, Ms. ESHOO, Mr. FARR, Mr. FATTAH, Mr. FILNER, Mr. FRANK of Massachusetts, Mr. GRIJALVA, Mr. GUTIERREZ, Mr. HALL of New York, Mr. HARE, Ms. HARMAN, Mr. HASTINGS of Florida, Mr. HINCHEY, Ms. HIRONO, Mr. HOLT, Mr. HONDA, Mr. INSLEE, Mr. ISRAEL, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. JOHNSON of Georgia, Mr. KENNEDY, Mr. KUCINICH, Mr. LANGEVIN, Mr. LARSEN of Washington, Ms. LEE of California, Mr. LEWIS of Georgia, Mr. LOEBSACK, Ms. ZOE LOFGREN of California, Mrs. LOWEY, Mr. LYNCH, Mrs. MALONEY, Mr. MARKEY of Massachusetts, Ms. MATSUI, Mrs. MCCARTHY of New York, Ms. MCCOLLUM, Mr. MCDERMOTT, Mr. MCGOVERN, Mr. MEEK of Florida, Mr. MEEKS of New York, Mr. MICHAUD, Mr. GEORGE MILLER of California, Ms. MOORE of Wisconsin, Mr. MORAN of Virginia, Mr. MURPHY of Connecticut, Mr. PATRICK J. MURPHY of Pennsylvania, Mr. NADLER of New York, Mrs. NAPOLITANO, Ms. NORTON, Mr. OBERSTAR, Mr. OLVER, Mr. PALLONE, Mr. PASCRELL, Mr. PASTOR of Arizona, Mr. PAYNE, Ms. PINGREE of Maine, Mr. POLIS of Colorado, Mr. PRICE of North Carolina, Ms. ROS-LEHTINEN, Mr. ROTHMAN of New Jersey, Ms. ROYBAL-ALLARD, Mr. RUSH, Ms. LINDA T. SANCHEZ of California, Ms. LORETTA SANCHEZ of California, Mr. SARBANES, Ms. SCHAKOWSKY, Mr. SCHIFF, Ms. SCHWARTZ, Mr. SERRANO, Mr. SESTAK, Ms. SHEAPORTER, Mr. SHERMAN, Mr. SIRES, Ms. SLAUGHTER, Mr. SMITH of

Washington, Ms. SPEIER, Mr. STARK, Ms. SUTTON, Mr. THOMPSON of California, Mr. TIERNEY, Mr. TOWNS, Ms. TSONGAS, Mr. VAN HOLLEN, Ms. VELAZQUEZ, Ms. WASSERMAN SCHULTZ, Ms. WATSON, Mr. WAXMAN, Mr. WEINER, Mr. WELCH, Mr. WEXLER, Ms. WOOLSEY, and Mr. WU) introduced the following bill; which was referred to the Committee on Armed Services

**A BILL**

To amend title 10, United States Code, to enhance the readiness of the Armed Forces by replacing the current policy concerning homosexuality in the Armed Forces, referred to as 'Don't Ask, Don't Tell', with a policy of nondiscrimination on the basis of sexual orientation.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

**SECTION 1. SHORT TITLE.**

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**SEC. 2. PURPOSE.**

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**SEC. 3. REPEAL OF 1993 POLICY CONCERNING HOMOSEXUALITY IN THE ARMED FORCES.**

The following provisions of law are repealed:

- (1) Section 654 of title 10, United States Code.
- (2) Subsections (b), (c), and (d) of section 571 of the National Defense Authorization Act for Fiscal Year 1994 (10 U.S.C. 654 note).

**SEC. 4. ESTABLISHMENT OF POLICY OF NONDISCRIMINATION BASED ON SEXUAL ORIENTATION IN THE ARMED FORCES.**

(a) Establishment of Policy- (1) Chapter 37 of title 10, United States Code, is amended by adding at the end the following new section:

**Sec. 656. Policy of nondiscrimination based on sexual orientation**

- ` (a) Policy- The Secretary of Defense, and the Secretary of Homeland Security with respect to the Coast Guard when it is not operating as a service in the Navy, may not discriminate on the basis of sexual orientation against any member of the Armed Forces or against any person seeking to become a member of the Armed Forces.
- ` (b) Discrimination on Basis of Sexual Orientation- For purposes of this section, discrimination on the basis of sexual orientation is--
  - ` (1) in the case of a member of the Armed Forces, the taking of any personnel or administrative action (including any action relating to promotion, demotion, evaluation, selection for an award, selection for a duty assignment, transfer, or separation) in whole or in part on the basis of sexual orientation; and
  - ` (2) in the case of a person seeking to become a member of the Armed Forces, denial of accession into the Armed Forces in whole or in part on the basis of sexual orientation.
- ` (c) Personnel and Administrative Policies and Action- The Secretary of Defense, and the Secretary of Homeland Security with respect to the Coast Guard when it is not operating as a service in the Navy, may not establish, implement, or apply any personnel or administrative policy, or take any personnel or administrative action (including any policy or action relating to promotions, demotions, evaluations, selections for awards, selections for duty assignments, transfers, or separations) in whole or in part on the basis of sexual orientation.
- ` (d) Rules and Policies Regarding Conduct- Nothing in this section prohibits the Secretary of Defense, and the Secretary of Homeland Security with respect to the Coast Guard when it is not operating as a service in the Navy, from prescribing or enforcing regulations governing the conduct of members of the Armed Forces if the regulations are designed and applied without regard to sexual orientation.
- ` (e) Re-Accession of Otherwise Qualified Persons Permitted- Any person separated from the Armed Forces for homosexuality, bisexuality, or homosexual conduct in accordance with laws and regulations in effect before the date of the enactment of this section, if otherwise qualified for re-accession into the Armed Forces, shall not be prohibited from re-accession into the Armed Forces on the sole basis of such separation.

``(f) Sexual Orientation- In this section, the term `sexual orientation' means heterosexuality, homosexuality, or bisexuality, whether the orientation is real or perceived, and includes statements and consensual sexual conduct manifesting heterosexuality, homosexuality, or bisexuality.'.

(2) The table of sections at the beginning of such chapter is amended--

(A) by striking the item relating to section 654; and

(B) by adding at the end the following new item:

``656. Policy of nondiscrimination based on sexual orientation in the Armed Forces.'.

(b) Conforming Amendments- Title 10, United States Code, is amended as follows:

(1) Section 481 is amended--

(A) In subsection (a)(2), by inserting `, including sexual orientation discrimination,' after `discrimination' in subparagraphs (C) and (D); and

(B) in subsection (c), by inserting `and sexual orientation-based' after `gender-based' both places it appears.

(2) Section 983(a)(1) is amended by striking `(in accordance with section 654 of this title and other applicable Federal laws)'.

(3) Section 1034(i)(3) is amended by inserting `sexual orientation,' after `sex,'.

## **SEC. 5. BENEFITS.**

Nothing in this Act, or the amendments made by this Act, shall be construed to require the furnishing of dependent benefits in violation of section 7 of title 1, United States Code (relating to the definitions of `marriage' and `spouse' and referred to as the `Defense of Marriage Act').

## **SEC. 6. NO PRIVATE CAUSE OF ACTION FOR DAMAGES.**

Nothing in this Act, or the amendments made by this Act, shall be construed to create a private cause of action for damages.

**SEC. 7. REGULATIONS.**

(a) In General- Not later than 90 days after the date of the enactment of this Act, the Secretary of Defense shall revise Department of Defense regulations, and shall issue such new regulations as may be necessary, to implement section 656 of title 10, United States Code, as added by section 4(a). The Secretary of Defense shall further direct the Secretary of each military department to revise regulations of that military department in accordance with section 656 of title 10, United States Code, as added by section 4(a), not later than 180 days after the date of the enactment of this Act. Such revisions shall include the following:

- (1) Revision of all equal opportunity and human relations regulations, directives, and instructions to add sexual orientation nondiscrimination to the Department of Defense Equal Opportunity policy and to related human relations training programs.
- (2) Revision of Department of Defense and military department personnel regulations to eliminate procedures for involuntary discharges based on sexual orientation.
- (3) Revision of Department of Defense and military department regulations governing victims' advocacy programs to include sexual orientation discrimination among the forms of discrimination for which members of the Armed Forces and their families may seek assistance.

(b) Regulation of Conduct- The Secretary of Defense, and the Secretary of Homeland Security with respect to the Coast Guard when it is not operating as a service in the Navy, shall ensure that regulations governing the personal conduct of members of the Armed Forces shall be written and enforced without regard to sexual orientation.

(c) Definition- In this section, the term 'sexual orientation' has the meaning given that term in section 656(f) of title 10, United States Code, as added by section 4(a).

## APPENDIX D

### **Armed Forces Code of Social Conduct: Policy Statement**

British Ministry of Defence

1. This Code of Social Conduct explains the Armed Forces' policy on personal relationships involving Service personnel. It applies to all members of the Armed Forces regardless of their gender (including gender reassignment status), sexual orientation, race, religion, belief, ability, rank or status. The provisions apply equally to members of the Regular and the Reserve Forces. The Code of Social Conduct should be read in conjunction with the Ministry of Defence's Unified Diversity Strategy.
2. In the area of personal relationships, the overriding operational imperative to sustain team cohesion and to maintain trust and loyalty between commanders and those they command imposes a need for standards of social behaviour that are more demanding than those required by society at large. Such demands are equally necessary during peacetime and on operations. Examples of behaviour that can undermine such trust and cohesion, and therefore damage the morale or discipline of a unit (and hence its operational effectiveness) include:
  - unwelcome sexual attention in the form of physical or verbal conduct
  - over-familiarity with the spouses, civil partners or partners of other Service personnel
  - displays of affection which might cause offence to others
  - behaviour which damages or puts at risk the marriage, civil partnership or personal relationships of Service personnel or civilian colleagues within the wider defence community
  - misuse of rank and taking advantage of subordinates
  - probing into a person's private life and relationships
  - It is important to acknowledge in the tightly knit military community a need for mutual respect and a requirement to avoid conduct which offends or causes distress to others. Each case will be judged on an individual basis.
3. It is not practicable to list every type of conduct that may constitute social misbehaviour. The seriousness with which misconduct will be regarded will depend on the individual circumstances and the potential for adversely affecting operational effectiveness and team cohesion. Nevertheless, misconduct involving abuse of position, trust or rank, or taking advantage of an individual's separation, will be viewed as being particularly serious.

4. Unacceptable social conduct requires prompt and positive action to prevent damage. Timely advice and informal action can often prevent a situation developing to the point where it could:

- impact adversely on third parties; and/or
- impair the effectiveness of a Service individual or unit
- result in damage to corporate image or reputation

However, on occasion it may be appropriate to proceed directly to formal administrative or disciplinary action. Such action is always to be proportionate to the seriousness of the misconduct. It may constitute a formal warning, official censure, the re-assignment of one or more of the parties involved or disciplinary action. In particularly serious cases, or where an individual persists with, or has a history of acts of social misconduct, formal disciplinary or administrative action may be taken, which might lead to termination of service.

### **The Service Test**

5. When considering possible cases of social misconduct, and in determining whether the Service has a duty to intervene in the personal lives of its personnel, Commanding Officers at every level must consider each case against the following Service Test:

"Have the actions or behaviour of an individual adversely impacted or are they likely to impact on the efficiency or operational effectiveness of the Service?"

This Service Test lies at the heart of the Armed Forces' Code of Social Conduct; it is equally applicable to all forms of conduct, including behaviour while not on duty. In assessing whether to take action, Commanding Officers will consider a series of key criteria. This will establish the seriousness of the misconduct and its impact on operational effectiveness and thus the appropriate and proportionate level of sanction. Each of the Services has its own statement on values and standards.

### **Diversity Impact Assessment**

This policy does not discriminate on grounds of race, ethnic origin, religion, belief, sexual orientation or social background. Neither does it discriminate on grounds of gender, disability or age, insofar as the legislation applies to the Armed Forces. The Diversity Impact Assessment is held by the "Code of Social Conduct" Policy sponsor.

Accessed on 12 May 2010:  
(<http://www.mod.uk/DefenceInternet/AboutDefence/WhatWeDo/Personnel/EqualityAndDiversity/ArmedForcesCodeOfSocialConductPolicyStatement.htm>)

## **Appendix E**

The following is an excerpt from the Manual for Courts-Martial (MCM), United States (2008 edition), page IV-96.

### **51. Article 125—Sodomy**

a. *Text of statute.*

(a) **Any person subject to this chapter who engages in unnatural carnal copulation with another person of the same or opposite sex or with an animal is guilty of sodomy. Penetration, however slight, is sufficient to complete the offense.**

(b) **Any person found guilty of sodomy shall be punished as a court-martial may direct.**

b. *Elements.*

(1) That the accused engaged in unnatural carnal copulation with a certain other person or with an animal.

(Note: Add any of the following as applicable)

(2) That the act was done with a child under the age of 12.

(3) That the act was done with a child who had attained the age of 12 but was under the age of 16.

(4) That the act was done by force and without the consent of the other person.

c. *Explanation.* It is unnatural carnal copulation for a person to take into that person's mouth or anus the sexual organ of another person or of an animal; or to place that person's sexual organ in the mouth or anus of another person or of an animal; or to have carnal copulation in any opening of the body, except the sexual parts, with another person; or to have carnal copulation with an animal.

d. *Lesser included offenses.*

(1) With a child under the age of 16.

(a) Article 125—forcible sodomy (and offenses included therein; see subparagraph (2) below)

(b) Article 80—attempts

(2) Forcible sodomy.

(a) Article 125 — sodomy (and offenses included therein; see subparagraph (3) below)

(b) Article 134—assault with intent to commit sodomy

(c) Article 80—attempts.

(3) Sodomy. Article 80—attempts

(Note: Consider lesser included offenses under Art. 120, depending on the factual circumstances in each case.)

e. Maximum punishment.

(1) By force and without consent. Dishonorable discharge, forfeiture of all pay and allowances, and confinement for life without eligibility for parole.

(2) With a child who, at the time of the offense, has attained the age of 12 but is under the age of 16 years. Dishonorable discharge, forfeiture of all pay and allowances, and confinement for 20 years.

(3) With a child under the age of 12 years at the time of the offense. Dishonorable discharge, forfeiture of all pay and allowances, and confinement for life without eligibility for parole.

(4) Other cases. Dishonorable discharge, forfeiture of all pay and allowances, and confinement for 5 years.

f. Sample specification.

In that (personal jurisdiction data), did, (at/on board—location) (subject-matter jurisdiction data, if required), on or about 20 , commit sodomy with , (a child under the age of 12) (a child who had attained the age of 12 but was under the age of 16) (by force and without the consent of the said ).

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The following is an excerpt from the Manual for Courts-Martial (MCM), United States (2008 edition), Appendix 23 – Analysis of Punitive Articles, pages A23-16 and 17.

## **51. Article 125—Sodomy**

b. *Elements.* 2004 Amendment: Paragraph 51(b) was amended by adding two factors pertaining to age based upon the 1994 amendment to paragraph 51(e) that created two distinct categories of sodomy involving a child. See also concurrent change to R.C.M. 307(c)(3) and accompanying analysis.

c. *Explanation.* This paragraph is based on paragraph 204 of MCM, 1969 (Rev.). Fellatio and cunnilingus are within the scope of Article 125. See United States v. Harris, 8 M.J. 52 (C.M.A. 1979); United States v. Scoby, 5 M.J. 160 (C.M.A. 1978). For a discussion of the possible constitutional limitations on the application of Article 125 (for example, the sexual activity of a married couple), see United States v. Scoby, *supra*.

d. *Paragraph 51e.* The Analysis accompanying subparagraph 51e is amended by inserting the following at the end thereof:

*1994 Amendment.* One of the objectives of the Sexual Abuse Act of 1986, 18 U.S.C. §§ 2241–2245 was to define sexual abuse in gender-neutral terms. Since the scope of Article 125, U.C.M.J., accommodates those forms of sexual abuse other than the rape provided for in Article 120, U.C.M.J., the maximum punishments permitted under Article 125 were amended to bring them more in line with Article 120 and the Act, thus providing sanctions that are generally equivalent regardless of the victim's gender. Subparagraph e(1) was amended by increasing the maximum period of confinement from 20 years to life. Subparagraph e(2) was amended by creating two distinct categories of sodomy involving a child, one involving children who have attained the age of 12 but are not yet 16, and the other involving children under the age of 12. The latter is now designated as subparagraph e(3). The punishment for the former category remains the same as it was for the original category of children under the age of 16. This amendment, however, increases the maximum punishment to life when the victim is under the age of 12 years.

*Lesser included offenses.*

*2007 Amendment.* The former Paragraph 87 (1) (b), Article 134 Indecent Acts or Liberties with a Child, has been replaced in its entirety by paragraph 45. The former Paragraph 63 (2) (c), Article 134 Assault - Indecent, has been replaced in its entirety by paragraph 45. The former Paragraph 90 (3) (a), Article 134 Indecent Acts with Another, has been replaced in its entirety by paragraph 45. Lesser included offenses under Article 120 should be considered depending on the factual circumstances in each case.

e. *Maximum punishment.* The maximum punishment for forcible sodomy was raised in recognition of the severity of the offense which is similar to rape in its violation of personal privacy and dignity.

f. *Sample specifications.* 2004 Amendment: Paragraph 51(f) was amended to aid practitioners in charging the two distinct categories of sodomy involving a child created in 1994. See also concurrent change to R.C.M. 307(c)(3) and accompanying analysis.

## **Appendix F**

# DOD Nondiscrimination Policy Training

Sexual Orientation

## Overview

- Leadership
- New Policy
- Mission and Values
- Behaviors
- Resources

## Leadership

- Quotes

## Leadership

- Supports new policy
  - Congress
  - CINC, President Barack Obama
  - SecDef Gates
  - CJCS, Adm Mullen
- *Add Unit Level Commanders' names here*

## New Statute & Policy

- Sexual orientation removed from service eligibility criteria
- Unlawful to discriminate based on sexual orientation, real or perceived
- Enhances Military Readiness
  - Return of personnel with critical skills
  - Possible recruiting boost

## DOD Mission

- To provide the military forces needed to deter war and to protect the security of the United States
- Everything we do supports that primary mission
- Nothing less is acceptable to us, or to the American people

## DOD Values

- Duty
- Integrity
- Ethics
- Honor
- Courage
- Loyalty

### *Service Specific Core Values*

- Air Force: Integrity first, service before self, and excellence in all we do
- Army: Loyalty, duty, respect, selfless service, honor, integrity, and personal courage
- Coast Guard: Honor, respect, and devotion to duty
- Navy and Marine Corps: Honor, courage, and commitment

## Example: USAF Core Values

- Integrity First
  - Responsibility
- Service Before Self
  - Respect For Others
- Excellence in All We Do
  - Community Excellence
    - Mutual Respect

## Behavior, not Beliefs

- Retain your personal beliefs about human sexuality
- DOD does not endorse high risk behavior regardless of sexual orientation

## Behavior

- Make skill and merit based decisions
- Act professional, regardless of sexual orientation
- Report Unlawful Discrimination to CC
  - Violence
  - Hostile environments, Unprofessional language
  - Sexual harassment

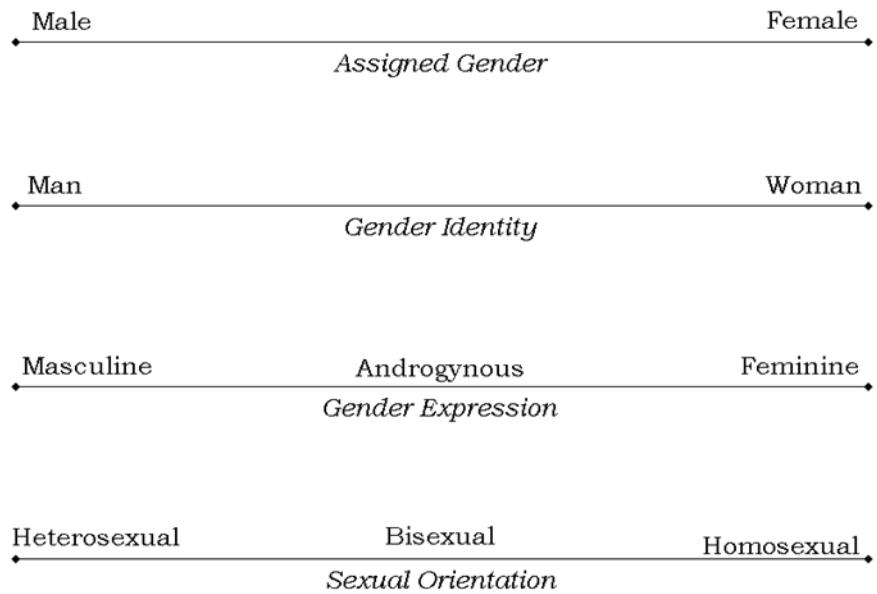
## Analysis: Real or Perceived

- Real
  - Affirmed sexual orientation
- Perceived
  - Assumed sexual orientation
  - Often erroneously based upon gender expression

## Stereotypes

- Effeminate men / masculine women are gay
- Gay men are not “real” men
- Lesbians are not “real” women
- All gay men get or have HIV / AIDS
- Homosexual couples still have a “man” & a “woman” in them i.e. gender roles
- All married people (w/kids) are heterosexual

## Gender & Sexuality



## Resources

- MEO: diversity, harassment
- JAG: legal advice
- Chaplain: counseling
- Life Skills: counseling
- Clinic: safer sex
- Sexual Assault Responder

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